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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Effects of structural adjustment policies on the full enjoyment of human rights

Report by the Independent Expert, Mr. Fantu Cheru, submitted in accordance with Commission decisions 1998/102 and 1997/103

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Introduction

1. In its decision 1997/103, the Commission on Human Rights decided to request the Chairman of the Commission, in consultation with the regional groups, to appoint an independent expert to study the effects of structural adjustment policies on economic, social and cultural rights, to be submitted to the Commission at its fifty-fourth session. Owing to unforeseen circumstances, it was not possible for the report to be submitted (see E/CN.4/1998/26), and the independent expert that had been appointed subsequently submitted his resignation.

2. In its decision 1998/102, the Commission requested the independent expert to submit his report as envisioned in decision 1997/103 for consideration by the open-ended working group on structural adjustment programmes and economic, social and cultural rights, which is scheduled to meet from 1 to 5 March 1999. Mr. Fantu Cheru was appointed independent expert on 9 December 1998.

3. The present report is submitted in accordance with the requests contained in Commission decisions 1997/103 and 1998/102.

4. The report is divided into three sections. Chapter I examines briefly the roots of the third world development crises which, manifested as debt, represents only a fraction of a much deeper and systemic problem of underdevelopment. Chapter II explores the links between structural adjustment programmes and the realization of economic, social and cultural rights. Chapter III presents basic principles for "adjustment with transformation" and provides recommendations for action at the international, regional and national levels.

I. THE ROOTS OF INDEBTED DEVELOPMENT

5. Today, in much of the third world, economic growth has slowed and living standards for the majority have suffered in the face of rising unemployment and mass poverty. The incomes of most Latin Americans is 20 per cent lower than it was in 1980. In sub-Saharan Africa, average consumption is below the 1970 level. At the centre of this deterioration lies a crisis of almost unprecedented global proportions: the $1.8 trillion owed by the third world to Western banks, Governments and multilateral institutions such as the International Monetary Fund (IMF) and the World Bank. While measurable in dollars, the crisis takes its toll on human beings with a brutality that is difficult to capture in words. The economic, social and cultural rights of millions of poor people across the third world have been systematically undermined as a result of neo-liberal adjustment policies aimed at sustaining the servicing of this debt by destitute nations. For the majority of people in the debtor countries, economic recession means increasingly inadequate diets, insufficient income to feed and educate children, and mounting susceptibility to disease. Meanwhile, money is flowing from the South to the North: the estimated transfer of capital from the third world to the developed countries was $189 billion in 1995 and at least $213 billion in 1996. The regional distribution in 1996 was: $97 billion from Latin America; $24 billion from Africa, and $95 billion from Asia. These figures include both principal and interest payments.

6. Officials of the IMF, the World Bank and the Group of seven (G-7) Governments consistently maintain the position that these debts can and must be repaid. They are calling for further increases in third world exports, stricter adjustment programmes, and closer "surveillance" of debtor nations' economies by the IMF. They say that under these conditions, and assuming higher growth rates and stable interest rates worldwide, third world countries will eventually be able to work their way out of debt. Regrettably, both the IMF and the World Bank treat the management of the debt crisis as a separate activity from the important task of human development. High growth of gross national product (GNP) or the reduction of inflation does not lead to development unless it is accompanied by changes in the distribution of income, enabling a larger portion of the population to realize their economic, social and cultural rights.

7. Even if the economic conditions for continued debt payments can be achieved - which appears doubtful - the political and social costs would be extremely high. Debt repayment often absorbs a quarter to a third of developing countries' limited government revenue, crowding out critical public investment in human development. The problem is worse for the 41 highly-indebted poor countries (HIPC), many of which are also low human development countries. Hungry peasants and workers, who have already sacrificed far more then they can afford, will not quietly endure even harsher austerity. Debt repayment is already straining the limits of political systems in many countries, as the desperation of the poor erupts in strikes, food riots, and demonstration against the IMF. Enforcement of more economic "adjustment" is likely to lead to increased repression. In the words of former Argentine President Alfonsín, increased debt payment can only be taken "out of the account of democracy".

A. Magnitude of the debt

8. At the beginning of 1996, the total foreign debt owed by developing countries was $1.8 trillion. The regional distribution of this debt was as follow: $656 billion for Latin America; $340 billion for Africa (of which $167 billion was owed by countries of sub-Saharan Africa); $857 billion for Asia. 1/ While most of Latin America's debt is owed to commercial banks, most of the debt owed by African nations is to official donors and multilateral organizations. Yet, by most conventional indicators, such as the ratio of debt to GNP, sub-Saharan Africa's debt burden was 123 per cent of its GNP compared with 41.4 per cent for Latin America and 28.2 per cent for Asia. In terms of ratio of external debt to exports, the figures are striking: 202 per cent for Latin America; 340 per cent for sub-Saharan Africa; and 121 per cent for Asia.

9. The general practice by donors has been to reschedule debt on condition that countries press on with implementation of structural adjustment programmes (SAPs). Between 1986 and 1996, 178 debt-restructuring agreements have been concluded with official creditors of the Paris Club and 55 separate debt-restructuring agreements have been reached with commercial banks in the London Club. Of the 178 agreements with official creditors, 106 were with sub-Saharan African Governments. 2/ Such rescheduling may ease immediate cash-flow problems, but it adds up the total stock of debt. For example, about 40 per cent of the long-term non-concessional debt African countries

owed to the Paris Club at the end of 1988 represented interest capitalized by Club rescheduling. Therefore, rescheduling is merely an "accounting fiction" and does little to ease the volume of debt countries owe to official creditors.

10. Despite repeated rescheduling of debt by creditor countries, developing countries continue to pay out more each year in debt service than the actual amounts they receive in official development assistance. For example, between 1986 and 1996, developing countries paid out a total of $1.7 trillion: $664 billion by Latin America; $295.2 billion by Africa (of which $81.8 billion from sub-Saharan Africa); and $757 billion from Asia. 3/ The Latin American debt crisis, which United States Treasury and IMF officials had proclaimed to the world to be over, was smoldering beneath the surface. Although the region experienced moderate growth after a decade of implementing tough structural adjustment programmes, Mexico and Brazil, the two best performing economies in the hemisphere, experienced serious economic difficulties as their currencies lost value and foreign investors pulled out. The human consequences are hard to describe.

11. The economic collapse in Brazil - the largest economy in the hemisphere - started in late 1998 and has now become a full-blown crisis. In November 1998, after investors grew nervous in the aftermath of the Asian crisis about Brazil's ability to pay its debts, the IMF and the United States Treasury marshalled a $41.5 billion loan package for Brazil that was touted as a major initiative to keep Latin America from succumbing as Asia and Russia had. The devaluation of the Brazilian currency on 14 January 1999 sent shock-waves across the globe, plunging stock markets from New York to Frankfurt. On that same day, an estimated $2 billion left the country as nervous investors pulled out their investments. 4/ Because Brazil accounts for 40 per cent of Latin America's economic output, this situation threatens the economies of Chile, Argentina, Venezuela and Mexico. Both the Mexican and Brazilian financial crises are rooted in the management of the debt crisis of the 1980s, which helped commercial banks collect their loans while failing to build a durable foundation in the debtor nations for long-term sustainable growth. Instead, most Latin American debtors are saddled with more debt than when they started to accept IMF and World Bank assistance in the early 1980s.

12. The recent crises in Russia, Mexico and Brazil illustrate the limits of the IMF approach to the debt crisis. Structural adjustment at the domestic level is meaningless without a corresponding adjustment at the global level. The debt problem has reduced the amount of foreign exchange available to purchase necessary imports, leading to very severe import strangulation, depriving industry and agriculture of needed inputs. New investments and even maintenance of existing capital stock have been hindered. Debt servicing and the adjustment policies pushed to free up foreign exchange needed to service the debt have also worsened social welfare in the areas of health, education and poverty reduction.

B. Indebtedness and the human crisis

13. Four decades after independence, the gap between the rich and poor in many third world countries has become wider than ever. The number of people left hungry, unemployed, homeless and landless has skyrocketed. Even in cases

where the "trickle down" approach generated more wealth, free-market forces left many third world markets wide open to penetration by foreign exporters and investors from outside, while entry into the large markets of the North has become even more difficult due to a number of tariff and non-tariff barriers. As a result of this increasingly unequal relationship between North and South, traditionally poor but self-providing peasant economies of third world countries are consumed by a world market system in which profit, and not development, is the driving force. The result has been a breakdown of communities and traditional support systems, a decrease in the status of women in most regions, and greater marginalization and suffering for already vulnerable social groups.

14. The present economic and social crisis in indebted countries cannot be understood in isolation from export-led growth development strategies consistently encouraged by the Bretton Woods institutions, bilateral donors and commercial institutions since the early 1950s. 5/ As development was assumed to be synonymous with westernization and urbanization, newly independent countries enthusiastically embarked on "imitative" development strategies that emphasized large-scale urban projects - namely, import-substitution industrialization, hotel complexes, stadiums, steel mills and power plants - with an enormous proportion of graft built into them and which may or may not work. Initially, ambitious projects were to be financed through extensive "surplus extraction" of export agriculture. However, the overemphasis on export-led growth, particularly on export agriculture and mineral extraction, merely reinforced the inherited colonial division of labour which condemned many developing nations to supplying raw materials to industrialized nations and trapped them into importing finished goods at much higher prices. Thus, unequal exchange is a permanent feature of the economies of the least developed countries (LDCs), as is their need to borrow.

15. With revenues from export agriculture barely able to finance needed imports, third world countries were urged to accept foreign loans to finance large-scale infrastructure projects on the theory that such inflows would kick-start their economies and help them to "take off" on their own towards industrialization and development. Higher levels of GNP growth, it was said, would generate funds needed to repay loans. But most third world economies did not "take off". With some exceptions, many of these poorly designed and unproductive "Pharaonic" schemes proved extremely costly to construct and maintain, and have done more to speed environmental destruction than to increase production.

16. The World Bank, for example, carried out massive irrigation projects and "green revolution" experiments in several African countries that proved very costly and difficult to administer. In some cases, these experiments accelerated the rate of displacement and environmental degradation, as powerful groups scrambled to seize more land to expand export production. While serving local elites and Western interests in the short term, this approach widened inequalities and bankrupted the countries' economies. 6/ Also, as a result of pursuing such strategies, the debts of many third world countries soared.

17. Poor advice from multilateral institutions and the self-interest-based nature of Western bilateral donors, and the structure of the global economy

have badly affected developing countries. The problem for most African countries in particular has been that many are locked into producing one or two primary products or minerals, with very little diversification. Trends in the third world's terms of trade for food, beverages, fibres and mineral exports were consistently unfavourable. Developing countries continue to have to sell cheap and buy dear. Persistent decline in commodity prices despite rapid expansion in production, resulting from policies of adjustment, is influenced by many factors. Many commodities are facing mounting competition from substitutes such as synthetics for cotton, aluminum for copper, and sugar beet and corn syrup for sugar. Discriminatory tariffs continue to grow while market access for third world products remains limited. Neither commodity price stabilization agreements nor assistance in diversifying agricultural export bases has been forthcoming. 7/ Therefore, to the extent that the industrialized countries have prevented debtor nations from earning their way out of debt, they themselves must take some responsibility for the third world's inability to repay loans.

C. Mortgaging the future: the lending boom of the 1970s

18. There are indeed many reasons for the third world debt crisis and it would be wrong to put all blame solely on either the Governments of debtor nations or on creditor nations and their commercial banks. It is safe to say, however, that the policies pursued by both creditors and debtors are responsible for accentuating the economic and social crisis and that the burden of adjustment must be shared equally by both.

1. Domestic factors

19. During the cold war, Western Governments often lent money to undemocratic or corrupt Governments for political reasons. Leaders the likes of Mobutu, Marcos and Somoza were given unconditional economic and political support from the West despite the fact that these leaders systematically and purposely denied economic, social and cultural rights to their citizens and, in the end, mortgaged their countries. Most money borrowed from the West was simply squandered.

20. The primary responsibility for prudent debt management and for responsible use of external financial resources rests with national Governments. However, many developing country Governments have often proved faithless to their responsibility to further development by and for their people. Many have completely mismanaged their economies. Many have let loose their predatory instincts and indulged in corruption, abuse of office and repression. Ill-conceived projects and programmes, fiscal imprudence, corruption and permitting capital flight have subsequently increased many countries' external debt burden and substantially reduced the economic base available to service it.

(a) Capital flight

21. Another element contributing heavily to the debt crisis is capital flight. While some third world Governments borrowed heavily to expand infrastructure, other less responsible Governments devoted much-needed resources to rebuilding their armies, and buying real estate in Europe

and consuming expensive goods. In the former Zaire, for example, former President Mobutu is reported to have taken $4-6 billion out of the country since 1980 alone, while in the Philippines, former President Marcos was reported to have put $3 billion into New York property markets and Swiss bank accounts. 8/ The United States Federal Reserve Bank estimated that $84 billion was sent out of Mexico, Chile, Venezuela, Argentina and Brazil between 1974 and 1982. This figure represented a third of the total new debt taken on by these countries during the same period. 9/ According to Patricia Adams, the foreign wealth held by citizens of the 15 largest third world debtors in 1987 amounted to $300 billion - more than half of the foreign debt owed by their countries. 10/

22. The excesses of many corrupt third world leaders did not raise any eyebrows in the West as long as these puppet regimes faithfully served the foreign policies of Western Powers. In the Cote d'Ivoire, for example, former President Houphouët-Boigny spent $350 million on the construction and dedication of a replica of Saint Peter's Basilica in the middle of the African savannah. Just a few hundred miles way, Emperor Bokassa of the Central African Republic spent 20 per cent of his country's gross domestic product (GDP) on his elaborate Napoleon-style coronation. The debt incurred in both countries by their respective leaders was left to be paid by the future generation. Such corrupt practices were also a common occurrence in Asia and Latin America.

(b) Guns, planes and real estate

23. Military spending also absorbed a large portion of the budgets of nearly all the indebted countries, leaving budgetary gaps to be financed with foreign loans. During the cold war period, both East and West subsidized third world militarization in order to safeguard their own strategic interests. Among the 20 nations with the largest foreign debt, arms imports between 1976 and 1982 cost the equivalent of 20 per cent of the increases in their combined debt. 11/ And since the end of the cold war, many Western Governments and former East bloc nations continue to sell surplus military hardware to heavily indebted developing countries. In many of these, the primary use of a powerful military has been to stifle popular opposition to government policies, including the austerity programmes adopted to help pay foreign debts. Thus, ironically, the arms trade contributes to the hunger of millions and to the creation of large numbers of refugees. In fact, present policies in several of Africa's hungriest countries illustrate the interrelationship between hunger, militarization and debt. Energy used for war cannot be used for developing food sources, pushing back the desert and feeding hungry people.

24. When countries borrow money, it is usually to finance productive investment which will create jobs and wealth. But, as indicated above, most investments by many third world Governments have been on non-productive activities or costly unsustainable projects. Despite all the rhetoric about development and poverty alleviation, the development strategies encouraged and financed by major aid institutions have consistently failed to relate in any significant manner to third world realities. Billions of dollars have been spent on third world institutions that have no links to the poor and no capacity to incorporate or respond to them. With declining receipts from

commodity exports, debt servicing has become a problem. The cruel irony is that the very victims of "development" are the ones who are being forced to "tighten their belt and eat less" in order to pay for the extravagant mistakes of powerful local elites and their external supporters.

2. Exogenous factors

25. The heavy borrowing of the 1970s alone did not precipitate the debt crisis. While funds were imprudently lent and some were certainly squandered, for the most part, resources were applied to real investment projects. Policy makers in both creditor and debtor countries thought that developing nations' strong export performance would continue and enable them to repay their debts with little difficulty. But the combination of negative developments that would burst the debt accumulation bubble in the early 1980s had not been foreseen. Prices for third world commodities remained stagnant and access to Western markets remained closed, making it difficult for developing countries to export their way out of debt.

26. With the increase in the price of oil by the Organization of Petroleum Exporting Countries (OPEC) in 1973 and 1979 and the world economic recession that followed, many third world countries had extreme difficulty in keeping their economies productive. Because of the mounting cost of fuel and other imports, many non-oil-producing third world countries had to double or triple their borrowing just to keep their economies functioning at pre-1970 levels. With the decline in official development assistance from the West due to the recession of the early 1970s, Governments turned to commercial banks to finance their oil imports. The banks, eager to recycle the "petrodollars" deposited with them by the OPEC countries, offered relatively low interest rates. Urged on by the need for profits, the banks threw overboard all measures of caution and did not ask about the end use of the money. This was particularly true in Latin America where by 1984, close to 69 per cent of the region's debt was owed to large commercial banks in the United States and Europe. They were only interested in how much interest would be paid on the basis of short maturities of three to five years; the motivation was greed.

27. Finally, it may take debt to have a debt crisis, but what turned that debt into a crisis was not the absolute level of debt, but the changing terms of the debt. And those terms were almost entirely determined by policy decisions in Washington, D.C. When the second oil price rise of 1979 occurred, the United States Federal Reserve Board adopted a tight monetary policy, in part to try to curb inflation and stem a major outflow of capital. This pushed up real interest rates to historically high levels. A few other key developed countries followed similar contradictory policies, which triggered a worldwide recession and drove up the cost of borrowing on a world scale. For debtor countries, this not only made new borrowing more expensive, but also unexpectedly increased the amount of interest they had to pay on their old loans, since much of this commercial borrowing was originally contracted with floating interest rates. It was these decisions that caused interest rates to soar and the world economy to go into a tailspin. Should the poor of the third world, who have already been victimized by the failed

development experiments of the past three decades, be required to sacrifice twice for the extravagant mistakes of powerful local groups and their external supporters?

II. LINKS BETWEEN STRUCTURAL ADJUSTMENT AND THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A. Structural adjustment and the neo-liberal counter-revolution

28. As more and more third world countries ran into greater difficulties servicing the huge loans made to them by Northern banks and the Bretton Woods institutions in the 1970s, the banks made the adoption of the World Bank's structural adjustment programme required in exchange for debt rescheduling. They argued that structural reforms would ensure debtors' ability to continue paying their debts beyond the short term. Pressure to adopt structural adjustment grew strong as a wide range of bilateral donors insisted upon economic reform and began to make it a condition for the disbursement of bilateral funds. Thus, unable to gain access to further private bank financing without the World Bank seal of approval, the Governments of debtor countries surrendered. By the end of 1985, 12 of the 15 debtors designated as top-priority debtors - including Argentina, Mexico and the Philippines - had submitted to structural adjustment programmes. 12/

29. Over the next seven years, structural adjustment loans (SALs) proliferated as the economies of more and more third world countries came under the surveillance and control of the Bank. Cooperation between the World Bank and the IMF was brought to a higher level with the establishment in 1988 of the structural adjustment facility (SAF) to closely coordinate both institutions' surveillance and enforcement activities, especially in sub-Saharan Africa. By 1990 some 187 SALs had been administered, many of them coordinated with equally stringent standby programmes administered by the IMF. Whereas in the previous division of labour between the two institutions, the World Bank was supposed to promote growth and the IMF was supposed to monitor financial restraint, their roles now became indistinguishable.

30. The countries of sub-Saharan Africa, with their poor credit rating, have largely been turned into an IMF "macroeconomic guinea pig" since they depend largely on resources from the multilateral institutions. Out of a total of 47 countries in that region, 30 are currently implementing adjustment programmes administered by the Bank and Fund. Whereas the number of IMF standby arrangements has declined from a high of 132 in the 1981-1985 period to 49 in 1996-1998, the number of enhanced structural adjustment facilities (ESAFs) has grown from 18 in 1986-1990 to a record high of 99 in 1991-1998 and 96 in the 1996-1998 period. A very high proportion of ESAFs are with the countries of sub-Saharan Africa. Since most of these countries have very weak political structures, an IMF-World Bank condominium has been imposed over them under the guise of providing aid. As a result, these countries have pretty much ceded their sovereignty to the IMF and the World Bank. Consequently, their responsibility to abide by the Declarations on the Right to Development and to formulate national development policies that aim to improve the economic, social and cultural rights of their citizens is severely undermined. 13/ Both became the enforcer of the North's economic

rollback strategy in much of the third world: the debt crisis was used as a convenient excuse to open third world markets and curtail the role of the State in national development.

B. Structural adjustment and the free-trade connection

31. Structural adjustment goes beyond the simple imposition of a set of macroeconomic policies at the domestic level. It represents a political project, a conscious strategy of social transformation at the global level, primarily to make the world safe for transnational corporations. In short, structural adjustment programmes (SAPs) serve as "a transmission-belt" to facilitate the process of globalization, through liberalization, deregulation, and reducing the role of the State in national development. 14/

32. With the collapse of communism in 1989 and the triumph of neo-liberalism, SAPs began to be applied with a vengeance across Eastern Europe despite their dismal record in other parts of the developing world. Governments in the transition economies are regularly advised to embrace structural adjustment as the only development model that would transform their economies in the shortest time possible and help them harness the opportunities offered by the rapid globalization of the world economy. But to get there, national Governments are encouraged to shift their development paradigm from development planning, with an active and commanding role for the State, to devaluation, deregulation, liberalization and privatization - in short, installing market fundamentals under the iron discipline of the trinity of the IMF, the World Bank and the World Trade Organization (WTO). In this regard, structural adjustment and global integration are mutually reinforcing. 15/

33. The most crucial impact of globalization and liberalization (i.e. structural adjustment) has been on the role of the State in national development. As Robert Cox (1987) suggested, the State no longer primarily acts as a buffer against the world economy, but plays an integral role in facilitating globalization. 16/ Surrounded by impersonal forces beyond their control, leaders have diminished scope to lead. The problems facing leaders are further compounded by the resentment and rebelliousness they provoke in the governed. Many people have a sense of uncertainty, a feeling of futility and a worry that uncontrollable forces are taking charge. The recent crisis in East Asia and Mexico are excellent examples. The losers in global restructuring - primarily led to their position through participation in SAPs - try to reassert themselves through organized resistance. 17/ In some countries, the immediate public response is withdrawal from the political process; in others, there is outrage and criticism. As antagonisms increase, energies and efforts are dissipated and leadership is at risk of losing credibility. 18/ The real challenge now is how to channel this discontent towards a more constructive and transformative project that puts human dignity at centre stage in national and international policy discussions.

C. Enter the IMF: He who controls the purse strings calls the tune!

34. For the purpose of this discussion, it is important to distinguish structural adjustment from stabilization programmes. While stabilization

strategy is designed to calm financial and economic turbulence by curbing high inflation rates and curtailing enormous budget deficits in the short term, structural adjustment is aimed at restructuring the productive capacities in order to increase efficiency and help restore growth and, therefore, extends over the medium and long term. The latter entails market reform, privatization and liberalization. The distinction between the two sets of programmes has been blurred, because World Bank programmes are never instituted unless an IMF programme is already in place. The basic philosophy of adjustment programmes has been to persuade indebted countries to "export their way out of the crisis" through closer integration into world markets, while devoting less attention to internal production for domestic needs, and by scaling down the role of the State in national planning and by allowing market forces to play a greater role in national development.

35. The original function of the IMF was to provide guidance and loans to trade deficit countries (including Northern ones) to allow them to defend their currency levels. When the fixed exchange system collapsed in 1972, the IMF's role was left in question. It found a new function in the 1980s as provider of loans to indebted developing countries requiring debt rescheduling and, more importantly, as policy formulator and monitor of stabilization and SAPs which recipient countries had to accept. The World Bank's original role was the provision of development project loans. In the 1980s it began to take on the additional functions of giving loans conditioned upon SAPs to indebted countries. Both institutions had great leverage because it is on their advice that commercial banks decide on rescheduling existing and on granting new loans for the developing world. Thus, in the context of the global economic counter-revolution of the Reagan years, these institutions were transformed to debt collection agencies on behalf of commercial banks.

36. One intent of adjustment programmes within the indebted countries is to reduce consumption of all kinds of goods and services. The IMF calls this "demand management". It is meant to ensure that more of debtor nations' resources will be used to produce exports to be sold for dollars that can then be used to pay debts. Among the conditions typically required by the IMF and the World Bank are the following:

(a) Deep reduction or elimination of subsidies and price controls, which distorted internal prices for a number of goods and services;

(b) Drastic reduction of trade and exchange controls designed to protect the local economy from foreign competition;

(c) High interest rates to fight inflation, promote savings and allocate investment capital to the highest bidders;

(d) Privatization of State-owned firms;

(e) Reduction of the role of the State, not only in the economy but also in the provision of social services such as health, education and social security;

(f) Indiscriminate export promotion through devaluation of the currency.

These policies are uniformly applied to all debtor countries requesting assistance from the IMF regardless of the special circumstances of each country and the real reasons behind their balance-of-payments difficulties.

37. At the abstract level, it is hard to disagree with many of the proposed reforms contained in adjustment programmes. Paying farmers premium prices for their goods, sound management of the government budget, delineating the proper role of the public and private sectors, or establishing efficient trade and exchange rate policies are important steps that third world Governments must undertake, with or without the IMF and the World Bank. But in the world of the 1990s, the overemphasis on export markets and complete deregulation of national economies have resulted not in growth and development, but plunging export prices and rising misery and ecological degradation in many countries. 19/ Human development is being sacrificed on the altar of free market reform and globalization.

38. The broad spectrum of the above macroeconomic policies have a number of socio-economic effects which directly affect changes in producer and production strategies.

1. Devaluation

39. The basic argument for devaluation is that it will stimulate export production and thus increase foreign exchange earnings, while raising the domestic price of imports and hence curtailing demand for imports. But according to an internal World Bank study, changes in the exchange rate would have little impact on agricultural output or increasing demand for the commodity concerned in international markets. 20/ Devaluation actually increased the cost of vital imports, such as spare parts, fertilizer and farm equipment, further undermining local production and capacity utilization in industries. Furthermore, falling world commodity prices can, in fact, result from competition among exports engendered by structural adjustment programmes. As more countries vie to sell more and more of the same commodities, the tendency is towards overproduction, global glut and price declines.

40. Another reason given for devaluation is the need to reverse foreign exchange linkage through black markets. In reality, devaluation accelerates capital flight. There is strong evidence that repeated devaluations stimulate currency speculation and capital flight. One reason why wealthy elites have taken more than $30 billion out of Africa is their expectation that savings held in national currencies will lose value under future devaluations.

2. Raising interest rates

41. The IMF and World Bank demand that there be less government direction of investment strategies, and require the elimination of exchange controls. This leaves high interest rates as the principal means of allocating investment capital and of restraining capital flight. In addition, the strategy of keeping interest rates high is based on the assumption that they promote savings. But high interest rate policies have several negative effects. They act as a powerful brake on economic expansion, discouraging borrowing for

investment. Besides their inflationary impact, high rates tend to allocate credit only to those who are already wealthy, shutting out most farmers and small manufacturers.

3. Reducing public expenditure (demand management)

42. Many developing countries were spending much more than they were earning. Normally, Governments financed their budget deficits by printing more money. This often led to inflation spiral. The approach of SAP is to reduce the budget by eliminating free services, charging user fees, for example, for education and health care. While maintaining budgetary balance is important, the cuts have been indiscriminate, thereby affecting basic services which are essential for human development.

43. During the initial years of IMF structural adjustment loans, as high a percentage as 60 per cent of the programmes mandated cuts in subsidies and spending on social sectors such as basic education, basic health and rural infrastructure. For example, in north-eastern Ghana, for numerous small subsistence farmers, favourable price shifts for rainfed crops were wiped out by a severe increase in the price of essential non-food goods such as fuel. Their situation was made worse by the SAP-induced rise in fees and user charges to cover cost for basic education and health services, which reduced their welfare. 21/

44. In the area of agricultural production, for example, more extension agents, crop specialists and veterinarians will not be available in rural areas to assist small farmers unless government investment is accelerated or maintained at the current level. Thus, much of the hard work which Governments will do to boost agricultural supply through amendments to price and exchange rate policy could be easily undone by their simultaneous cuts in government development expenditure which could dismantle much of the pre-existing structure of support services to farmers.

4. Privatization

45. Another budgetary measure is to privatize State-owned companies (parastatals) in an effort to increase efficiency and productivity. "Getting the Government out of business" has been the central doctrine of SAP. Moreover, retrenchment of workers in civil service and parastatals is required. When there are too many workers doing too little work, the country loses money. While in theory these actions are desirable, the privatization policy in many countries has been marred by corruption and lack of transparency, leading to the substitution of "State monopoly" with "private monopoly" of economic activities and the provision of services. This has not led to competition and efficiency. Civil service reform has come at great cost to Governments as the best and the brightest depart to greener pastures in the private sector where wages are much higher than in the public sector.

5. Liberalization of trade and reducing the role of the State

46. Monetary measures and budget controls under stabilization programmes may work to stabilize the economy, but these measures alone are insufficient if the economy is not restructured. According to the SAP formula, restructuring

requires that the Government withdraw from involvement in the operation of the economy and that market forces become supreme. This entails removing price controls and reducing tariff and quota barriers designed to protect domestic markets, which according to SAP are inefficient.

6. Increasing revenue through expanded exports

47. While it might appear to make sense for a single country to try to improve its export earnings by increasing the value of its sales, when 30 countries that export the same basic products try to do so, they end up driving prices down. When a glut occurs, their whole financial structures collapse as they are overinvested in exports.

48. In reality, however, SAPs functioned extremely effectively as a mechanism to collect third world debt and cause massive redistribution of financial resources from the South to the North. Between 1984 and 1990, for example, the draconian policies of debt collection produced a staggering net transfer of financial resources - $155 billion - from the South to the North. This massive decapitalization, which triggered the virtual collapse of economies throughout the South, was not simply the unfortunate consequences of repaying debt, as Northern media have portrayed it. Rather, it was the intentional outcome of a global economic counter-revolution set in motion in the 1980s by Northern States and economic institutions under the leadership of the Reagan administration. From Argentina to Ghana, State intervention in the economy has been drastically curtailed, protectionist barriers to Northern imports have been eliminated wholesale, restrictions on foreign investment have been lifted and, through export-first policies, internal economies have been more tightly integrated into the capitalist world market dominated by transnational corporations.

49. One should not confuse positive macroeconomic performance and GDP growth with development. While it is generally true that some debtor countries have witnessed varying degrees of growth following reform, there are hardly any countries where macroeconomic stability and policy-induced growth have been consistent over the medium term. 22/ The IMF's own study concluded that between 1973 and 1988, growth rates in IMF programme countries were significantly lower relative to the change in non-programme countries. Eighteen out of 25 countries with adjustment programmes also had IMF programmes. Similarly, an independent study by Paul Mosley of pairs of countries, one adjusting and the other not, concluded that structural adjustment countries receiving programme aid performed significantly worse than their non-SAL counterparts in terms of GDP growth criteria during the 1980s. It is possible to record high GDP growth rates, increased exports and improved payment balances without getting any closer to achieving such critical goals as food self-sufficiency, poverty alleviation, sustainable growth or self-reliance. In terms of these fundamental basic objectives of development, donor-supported reform programmes have failed miserably.

D. The real impact of SAP on development

50. It has been almost two decades since the widespread application of SAPs across the South, and 20 years is enough time to evaluate their effectiveness on overall social and economic development. A careful review of the

literature points to the conclusion that, while there are significant gains to be derived from liberalization as a result of structural adjustment programmes, such reforms do not provide the best outcome for all. The experience of the last 20 years in Africa and Latin America shows that structural adjustment policies are not consistent with long-term development needs of developing countries. The evidence challenges the assertion by the World Bank and the IMF that SAPs alleviate poverty and strengthen democracy. Instead, SAPs have been guided by laissez-faire market principles that privilege efficiency, productivity and groups engaged in export and international trade at the expense of civil liberty and self-government.

51. Although the experience is similar across continents, a closer look at the experiences of African countries is highly instructive. Between 1980 and 1990 alone, some 38 sub-Saharan countries initiated over 257 adjustment programmes. Most have had multiple programmes, with 14 countries implementing 10 or more. As we come to the end of the second decade of adjustment, the role of the State has been significantly curtailed, the dominance of market forces is set in place, and African economies are wide open to external penetration, due not only to adjustment programmes, but also to the continued pressure of globalization and market integration. However, despite implementing harsh economic measures for about two decades, substantial economic turnaround has not occurred in any of the countries that submitted to them; living standards for the majority of Africans have declined and investment in the productive and social sectors of many countries have dwindled. Retreat of the State in key areas of social services has left enormous gaps that have at times been filled by local survival initiatives. Reform has been necessary to satisfy the demands of external creditors for servicing debt and not adequately internalized as a domestic requirement for pursuing human-centred growth and development.

52. In addition, economic adjustment and liberalization have been forced down the throats of African people against the background of depressed commodity prices, declining official development assistance, withdrawal of private lending, increased Northern protectionism against African products, and unsustainable levels of debt. As a result, few African countries have achieved commendable progress in terms of the indicators that measure real, sustainable and human-centred development Instead, most countries have slid backwards into growing inequality, ecological degradation, de-industrialization and poverty. A United Nations advisory group reported that throughout sub-Saharan Africa, health systems are collapsing for lack of medicines, schools have no books, and universities suffer from a debilitating lack of library and laboratory facilities.

53. Similarly, in Latin America, per capita income in 1990 was at virtually the same level as 10 years earlier. Severe malnutrition stalks the countryside, paving the way for a repeat of the cholera epidemic which devastated Lima in the late 1980s. Even the so-called African "success" cases, such as Uganda and Ghana, they are basically being held afloat for demonstration purposes by continuing aid inflows. Needless to say, these incoming loans are piling up substantial interest obligations for the future. Adjustment in Africa has primarily been achieved by curtailing investment in people and by incurring more debt.

54. In the face of widespread public and official resistance to adjustment, the World Bank and its allies held fast, insisting that not only are SAPs working, but they are a necessary element of long-term transformation. On 12 March 1994, the Bank released a progress report on Africa, Adjustment in Africa: Reform, Results and the Road Ahead, to defend its failed policy of structural adjustment. By manipulating selective data of cross-country analysis, and without revealing the significant objection to the report's conclusion from internal Bank economists, the Bank claimed that African countries which implemented SAPs in the 1980s experienced greater positive growth than those that did not. Two years earlier, a draft World Bank study, entitled "Why structural adjustment has not succeeded in sub-Saharan Africa", stated that "World Bank adjustment lending has not significantly affected growth and has contributed to a statistically significant drop in investment ratios." 23/ Of the six countries the Bank put forward as adjustment "successes" - Ghana, the United Republic of Tanzania, the Gambia, Burkina Faso, Nigeria and Zimbabwe - four had deteriorating rates of investment and two had negative GDP growth rates during their respective adjustment periods.

55. One of the most blatant exaggerations about "Africa's Renaissance" comes from the IMF. In a paper entitled Africa: Is this the Turning Point?, co-authored by Stanley Fisher, the IMF's First Deputy Managing Director, the Fund loudly proclaimed that the economic situation in sub-Saharan Africa has improved markedly in the last few years, and attributes this mainly to improved macroeconomic and structural policies which the countries implemented under the Fund's guidance. The authors of the report further argue that changes in the external environment in the 1990s, such as increasing globalization and declining official development assistance, have indeed brought sub-Saharan Africa to a turning point. The authors then went on to catalogue a series of institutional and capacity problems that are hampering Africa's capacity to navigate the cold currents of globalization. 24/

56. The Fund's glowing assessment of Africa's reforms has been challenged by a report prepared by a team of external evaluators hired by the Fund's Executive Board in 1996. In a report entitled Distilling the Lessons from the ESAF Reviews, the external evaluation team, headed by former Ghanaian Finance Minister Kwesi Botchway - hardly a leftist - concluded that while ESAF-supported economic reforms generally have positive effects on growth and income distribution, they do entail temporary costs for certain segments of the population. This calls for appropriate compensatory measures to be built into programme design to protect such groups, including the provision of well-targeted assistance and the allocation of adequate resources for social sectors. In addition, the report concludes that, in implementing ESAF, the IMF failed to reinforce strategies to foster country ownership, particularly with a view to assessing the social impact of the reform programme. As the evaluators point out, attention to fostering ownership and to the social impact of reform could help policy makers build domestic consensus in favour of important but difficult reform measures. The report emphasized the need by the IMF to engage in intensive and informal dialogue with the country's political leadership to understand a country's political constraints and possibilities. 25/

E. Adjustment versus justice: making the poorest pay

57. An increasing number of voices within Africa, as well as many non-governmental groups and United Nations organizations such as UNICEF and the ILO, have been warning that the living conditions of the poor are deteriorating to intolerable levels despite - and sometimes because of - these structural adjustment programmes. Increasing malnutrition, falling school enrolment and rising unemployment threaten the social fabric of adjusting countries. 26/ As living standards erode, social unrest increases. 27/

58. In many countries currently engulfed by war and internal conflict, adjustment-induced social unrest provided the initial impetus for ethnic, tribal, religious fundamentalist and nationalist frenzy which eventually led to armed conflict. 28/ This reassessment of the nature of policy reforms is particularly striking because adjustment programmes are meant, according to their designers, to shift resources towards the poor. But while increases in food prices and cutbacks in government expenditures and employment have taken place as planned, overall economic growth - which was expected to counteract these developments - has not. The negative consequences of "orthodox" adjustment policies are evident in the following areas.

1. Increased unemployment 29/

59. During the years 1978-1995, of the 43 countries on which the ILO has published statistics, 31 countries, or 72 per cent, suffered a rise in unemployment during the years of IMF funding. Similarly, the Inter-American Development Bank reports that half of the 20 Latin American countries for which it has official data experienced rising unemployment in the 1980s and 1990s, during which time these countries received considerable and ongoing IMF lending. 30/ The increase in the rate of unemployment is not confined to low-performing adjustment countries alone. The growth in countries that are touted by the IMF and the World Bank as "model adjustment countries" with high GNP growth, such as Chile, Uganda and Ghana, has largely been "jobless growth".

60. The World Employment Report 1998-99 says that unemployment in Latin America increased between 1991 and 1996, reaching 7.4 per cent in 1997. 31/ These figures probably underestimate the magnitude of the problem. In Asia, the financial crisis was responsible for 10 million people in the region being unemployed overnight. In Indonesia alone, unemployment in 1998 is estimated to reach between 9 and 12 per cent of the labour force, compared with about 4 per cent in 1996. The situation in East Asia, Latin America and the Russian Federation is likely to get worse before it gets better since many emerging markets in the three regions are caught in a global pullback by investors, which could push unemployment and underemployment up sharply.

2. Dramatic increase in the poverty rate

61. Although accurate statistics are hard to come by, the UNDP Human Development Report and reports from the United Nations regional economic commissions provide startling information on both the persistence of poverty in many developing countries despite adherence to structural adjustment

programmes for well over a decade. Among the 4.4 billion people who live in developing countries, three fifths have no access to basic sanitation; almost one third are without safe drinking water; one quarter lack adequate housing; one fifth live beyond the reach of modern health services; one fifth of the children do not get as far as grade five in school and one fifth are undernourished. 32/

62. Rural poverty, a dominant feature of life in all regions of the world, affects the lives of close to 1 billion people. While urban poverty is also a growing phenomenon, the rural poor still account for over 80 per cent of the total number of poor people in more than 110 developing countries. The proportion of the rural population whose income and consumption fall below nationally defined poverty lines is estimated at 31 per cent in Asia (46 per cent if China and India are excluded), 60 per cent in sub-Saharan Africa, 61 per cent in Latin America and the Caribbean, and 26 per cent in the Near East and North Africa. In the 42 least developed countries, as much as 69 per cent of the total rural population lives in poverty. 33/ In the two regions with the highest incidence of income poverty - sub-Saharan Africa and South Asia - poverty is increasing in both absolute and real terms, according to the Human Development Report, 1997, and the majority of countries in these regions have been under IMF/World Bank surveillance. While those segments of society that are fully engaged in export activities - the primary focus of adjustment programmes - have benefited enormously and have consequently consolidated their economic power, the vast majority of the population have seen their living standards fall drastically.

3. Fall in real wages

63. Poverty is further accentuated by the downward pressure on wages and by the dramatic loss of purchasing power of the poor. In an attempt to contain inflation, wage restraint is advocated by SAP. The problem is further accentuated by the deliberate decision to keep wages low in order to attract foreign direct investment. According to ILO, real wages in most African countries, for example, have fallen 50 and 60 per cent since the early 1980s. In the Russian Federation, for example, rising economic turmoil has been accompanied by negative growth in real wages, now, at least, 60 per cent of their 1989 level. 34/ In a growing number of cases, enterprises cannot pay any wages at all to their employees for months at a time.

64. The ILO World Employment Report 1998-99 says that the majority of new jobs in developing countries are being created in the informal sector, which employs about 500 million workers. Yet, SAPs ignore the importance of informal sector activity. Despite lip-service, no concrete proposals have been offered by the IMF and the World Bank to capture the dynamism of the informal sector and to redirect adjustment funds to assist entrepreneurs to upgrade their skills, technology, or to enable them to have access to substantial amounts of capital necessary for expansion.

4. Decrease in budgetary allocations to social services

65. Because debtor nations must service their debt in order to receive further international assistance, many of these countries are forced to divert

a large portion of their resources from investment in the productive and social sectors. The cuts mandated by structural adjustment have been indiscriminate, thereby affecting basic services which are essential for long-term development and the realization of the economic, social and cultural rights of citizens. The magnitude of the social and economic crisis in the transition economies of Central and Eastern Europe is underscored by a significant deterioration of health and education indicators. 35/ Specifically, indiscriminate application of structural adjustment programmes have jeopardized the following rights:

(a) The right to food. SAPs have put the right to food in jeopardy. There is convincing evidence that shows nutritional levels decrease among poorer segments of the population as a result of removal of food subsidies. Growing unemployment has a similar result. The switching of agricultural policies, primarily from food production for local consumption to production of coffee, tobacco or cotton to generate foreign exchange, has also resulted in drastic decline in food production and in reduced nutritional levels and malnutrition;

(b) The right to education. Article 26 of the Universal Declaration of Human Rights declared that everyone has the right to education. The Convention on the Rights of the Child has also established the right to early development and education. Thanks to extraordinary efforts during the 1960s and 1970s, the percentage of children completing at least four years of primary education had reached 50 per cent or more in almost all developing countries. But since the 1980s, increasing debt and consequent implementation of structural adjustment programmes led many Governments to freeze or cut educational spending. As UNESCO has noted, primary schooling often suffered disproportionately, and there was significant slippage in sub-Saharan Africa. The percentage of 6 to 11-year-olds enrolled in school dropped from a high of 55 per cent in 1979 to 45 per cent in 1995. 36/ At risk here can be one of the areas in which sub-Saharan Africa has fared well - the reduction of inequalities between boys and girls in school enrolments. Girl's enrolments grew from 36 per cent in 1960 to 63 per cent in 1980. But in the face of increased fees, families may keep their daughters away from school when forced to choose which children to educate. Given the critical correlation between child welfare and the level of mothers' education, this could have important implications for infant and child health in the long term;

(c) The right to shelter. When wages are low or when they decrease, or when wage earners are unemployed as a result of structural adjustment programmes - as is more often the case - workers do not have enough resources to meet their basic needs, particularly housing. Furthermore, high interest rates ultimately kill the dream to own a home, and the devaluation of currency also increases the cost of construction materials. With the withdrawal of the State from direct provision of housing or housing subsidies to the poor and the deregulation of the rental market, the poor are exploited by private property owners, often paying over half of their meagre income on rent. Forced evictions are widespread as land values skyrocket due to pressure to build expensive dwellings for high-income groups. The property boom could also increase the cost of basic construction inputs, such as lumber, bricks and cement, also consumed by low-end consumers.

(d) The right to health. Article 25 of the Universal Declaration of Human Rights encourages the right to a standard of living adequate for health and well-being. The goal of "Health for all by the year 2000" agreed upon in the Almaty Declaration has been severely undermined by cutbacks in government health budgets as social and development objectives have been superseded by financial imperatives. The failure of the IMF and World Bank to protect health, nutrition and education budgets from general fiscal retrenchment in the design of structural adjustment programmes is a grave policy error. 37/ Drastic cuts inevitably have adverse consequences for social welfare and these in turn impinge on the economic productivity of human resources, generating resentment against Government by marginalized citizens. According to one authoritative source, the drug trade in Peru, Colombia and Bolivia is closely related to the significant social erosion in those countries as a result of the debt crisis and the accompanying policy of structural adjustment. 38/

5. High incidence of labour repression

66. There are certain labour standards which have been almost universally accepted as fundamental human rights as set out in various United Nations treaties. These include: the elimination of child labour exploitation, prohibition of forced labour, freedom of association, the right to organize and bargain collectively, and non-discrimination in employment. 39/ Despite the almost universal recognition that certain workers' rights are basic human rights, there is countless evidence that these rights are continually repressed in many parts of the world. The exploitation of child labour is particularly appalling and remains a serious problem. 40/

67. As indebted countries compete among themselves to offer cheaper labour to attract foreign direct investment (FDI), their labour standards are declining drastically. Many Governments rescind or modify national labour and social legislation to establish export processing zones (EPZs). The glue that links developing countries to the process of global integration is the policy of structural adjustment, with its emphasis on liberalization and free trade. The free-trade zones, where much of the overseas assembly work takes place, are havens for United States investment, complete with Government-subsidized electricity and other infrastructure. The zones mean more freedom for business and less freedom for people. The use of child labour and women in export processing zones has become extensive, bordering on a modern-day version of "slavery". 41/

68. In the Philippines and Malaysia, for example, the rapid expansion of foreign investment has come at a fearful human price. Behind walls often topped with barbed wire, the economic zones resemble a huge labour camp where trade unions, strikes and freedom of movement are severely limited, if not forbidden. A special police force is on hand to search people and vehicles entering and leaving the zones. 42/ Since multinational corporations go overseas to reduce labour costs, their employees are paid as little as $3 per day. The workers often live in overcrowded dormitories and work in dangerous conditions under constant threat of layoff.

69. According to the World Employment Report 1998-99, EPZs set up to attract foreign investors to developing countries have created jobs for millions of women, but too often working conditions and wages are poor and local economies

derive little benefits from the zones. The report said that about 27 million workers, 90 per cent of them women, were employed in more than 850 EPZs around the world - a trend which has had rapid development in recent decades. With labour costs a large component of total costs, companies see labour as a cost to contain rather than an asset to develop. 43/ As a result, the right to organize and to engage in collective bargaining is systematically undermined.

6. Widening of income disparities

70. Market-oriented policies, more often than not, strengthen wealthy groups disproportionately because people who are well placed in terms of asset holdings, education and social, ethnic and political contacts are likely to capitalize faster on the unfolding opportunities that market-oriented policies create. There is ample evidence demonstrating the increases in income inequality in IMF-supported countries.

71. While the percentage of poor people has nearly doubled in many countries implementing SAPs the share of national income received by the richest segment of the population has increased sharply over the last 15 years. For example, in Ghana, a country that is held up as the IMF's success story in Africa, agricultural sector reforms have disproportionately benefited cocoa farmers, who comprise only 18 per cent of Ghana's farming population and are concentrated primarily in the south. A 1987 Overseas Development Institute University of Ghana study revealed that 32 per cent of the cocoa farmers in the Ashanti region received 94 per cent of the gross cocoa incomes, while 68 per cent of the farmers received only 6 per cent. 44/ Meanwhile, the per capita income of non-cocoa farmers has stagnated. With the exception of 1984, Ghana's rate of food self-sufficiency has been steadily declining because incentives are not available to food producers. Scarce resources such as credit, extension, technology and other necessary inputs have been preempted for the cocoa sector while poor subsistence peasants are left to fend for themselves. 45/ Further, drastic devaluation of the Ghanaian currency (the cedi) has made the costs of inputs such as fertilizers too expensive for ordinary peasants to afford.

7. Undermining of local productive capacities

72. The most visible economic decline, particularly in sub-Saharan Africa, has been in the agricultural sector. The majority of developing countries, particularly those in sub-Saharan Africa, experienced a negative average annual growth rate in food production per capita between 1979 and 1997. Under the SAPs, farmers have increasingly abandoned traditional crops; in Malawi, which was once a net food exporter, maize production declined by 40 per cent in 1992 while tobacco output doubled between 1986 and 1993. 46/ Because of the pressure to generate foreign exchange to service debt, government budgets devoted to farm support services such as extension, credit and technology are being pre-empted to support export agriculture while the needs of subsistence farmers in the areas of food security, soil conservation and reforestation are ignored. 47/ These policy decisions have a direct impact on agricultural productivity, and hence on the incidence of food insecurity and malnutrition, and on unsustainable use of natural resources as poor peasants exploit land to

eke out a living. The short-term goals of adjustment policies, designed to improve commodity exports to generate foreign exchange to service debts, is therefore, inconsistent with long-term development needs. 48/

73. In addition, indiscriminate liberalization of trade, which abruptly opened the economy to competition with cheap imports, has resulted in bankruptcy of local small- and medium-sized firms in many adjusting countries.

8. Heavier debt burden

74. In virtually all developing countries that have been under the joint IMF-World Bank surveillance since the onset of the third world debt crisis, overall indebtedness has grown and annual debt servicing obligations have eased only marginally despite the claims by Western economists that these policies would reduce debt burdens. A Development Group for Alternative Policies study of 71 countries that have adopted SAPs shows a positive correlation between the number of years that a country has an adjustment programme in place and an increase in debt as a percentage of GNP. 49/ The World Bank's own figures show that 63 out of 69 countries have experienced an increase in their external debt while implementing SAPs. A series of debt-relief initiatives agreed upon by the G-7 countries since the Venice Economic Summit of 1987 have done little to ease the crisis.

75. The persistence of the debt problem has reduced the amount of resources available to purchase necessary imports, leading to a very severe import strangulation, depriving industry and agriculture of needed inputs, and holding back new investment and even the maintenance of the existing capital stock in many debtor countries. In many African countries, for example, major trunk roads that are necessary for internal trade and the supply of goods and services to rural areas have turned into a "lunar landscape" due to lack of maintenance, further raising the transaction costs of local producers and traders.

8. Debt-induced unsustainable use of natural resources

76. Although determining the precise link between the debt crisis, structural adjustment and environmental degradation is a difficult task, there appear to be several ways in which the emphasis on export diversification to generate more foreign exchange to service debt places a heavy strain on the natural resource base of many poor countries. One of the most evident links is that export of natural resources, including tropical timber, from several LDCs has dramatically increased in order to meet growing debt servicing requirements, setting aside considerations of sustainability. 50/ The 14 largest debtor countries ($10 billion or more) are also the same countries in which an unprecedented rate of deforestation is occurring. 51/

77. In Cameroon, for example, 150 licensed timber operating companies are involved in commercial logging, of which 23 are indigenous. Namibia's department of sea fisheries is involved in the large-scale harvesting of seals to be exported to the Far East. According to the Namibian Animal Action Group, the first-year mortality of seals is as high as 95 per cent. 52/ In Ghana the timber industry is being revived with support from the World Bank to make up for declining foreign exchange from cocoa. Timber output rose from

147,000 cubic metres to 413,000 cubic metres between 1984 and 1987. 53/ This has accelerated the steady destruction of Ghana's forests whose size has decreased considerably as a result of decades of agricultural conversion of forest land. As has happened in other parts of the world, this will likely lead to a disastrous situation of reduced food production, declining soil fertility and water supply problems. 54/

78. Debt-induced adjustment tends to have a disproportionate impact on the poorest who are forced to exploit the resource base in unsustainable ways. Such survival-oriented activities include spontaneous colonization in tropical forests, small-scale mining, and intensified use of marginal agricultural lands and marine ecosystems. Indiscriminate cutbacks in vital government programmes that fund environmental protection such as soil conservation and reforestation and the downsizing of enforcement agencies further accentuate the pace of resource degradation.

79. The recent tragedy in the Central American countries of Honduras and Nicaragua is a good illustration of the problem. Even before Hurricane Mitch, Honduras and Nicaragua were among the poorest nations in the hemisphere, with nearly half of their populations living below the poverty line. Nicaragua owes creditors $6.1 billion, the highest per capita debt in the world. Debt service payments of $254 million in 1997 absorbed 52 per cent of the Government's revenue and was two and a half times the country's spending on health and education combined. Similarly, Honduras owes $4.1 billion and the amount of money it spent paying back that debt accounted for one third of the Government's revenue last year. Adjustment-mandated cuts in government budgets and the downsizing of enforcement agencies had already crippled the capacity of both Governments to protect the natural resource base long before Hurricane Mitch hit with devastating force. Had public investment gone towards maintaining important programmes that assist small farmers, such as extension, soil conservation, reforestation and sustainable agricultural production, damage from the Hurricane would have been minimized.

80. The bottom line is that development cannot subsist upon a deteriorating environmental resource base. Environmental and developmental goals need to be pursued simultaneously since the well-being of both are inexorably linked.

9. Growing rift between State and society

81. Many third world Governments have more and more become accountable to external creditors (the IMF and the World Bank in particular) than to their own citizens. Across the third world, Governments are being pressed from above by invisible forces of globalization and from below by social forces that are losing out in the process of economic restructuring. The right of citizens to participate fully in framing national development policy is severely curtailed. This conflict between State and society undermines the possibilities of democratic consolidation in many countries - and hence, the prospect for solidifying the protection of human rights.

82. In the transition economies of Central and Eastern Europe, in particular, the social impact of SAP policies are reflected in a growing number of indicators showing that social cohesion and personal safety are under serious threat. Crime and homicide rates of frightening magnitude in

all countries are signs of a weakening social fabric and widespread perceptions of growing income and wealth gaps, higher unemployment and greater alcohol consumption. 55/ Despite increasing unreported and undetected crimes, the number of youths sentenced has risen dramatically in most countries.

83. Recent scholarly research has also begun to shed new light on the links between SAPs and the incidence of conflict and disorder. Although the crisis in Somalia and the genocide in Rwanda were largely attributed by the international media to "clanism" and "ethnicity", Michel Chossudovsky (1996) puts part of the blame on the draconian economic policies of the IMF and the World Bank which removed all official economic safety nets and left the Rwandan economy in shambles after the collapse of the international coffee market in the late 1980s. With the price of coffee plummeting and the Rwandan frac repeatedly devalued, the general population was left destitute and impoverished. This, according to Chossudovsky, created conditions in which power hungry officials and leaders could sow the seeds of civil war and genocide. Hatred, which in a prospering economy could not and would not have surfaced, soon became apparent and was followed by the collapse of civil society. 56/ It should be obvious by now that it is often the absence of justice that is the principal cause for the absence of peace. Any economic reform programme that denies human dignity is likely to be resisted by those who are being victimized. It is also likely to lead to further conflict and human misery.

F. Who is affected?

84. In an effort to amass funds to pay their creditors in wealthy nations, third world Governments are imposing economic austerity policies on their own people. Among the results of austerity are higher food prices, lower wages, and increased unemployment and landlessness throughout much of Latin America and Africa, and in some Asian countries as well. Debt-related cuts in health, nutrition and literacy programmes are undoing the results of years of development. The burden of paying the debt has fallen most heavily on those least able to carry it - the poor. Among the segment of the population affected negatively by the policies of structural adjustment are:

1. Women

85. The available evidence points out generalized patterns of the impact of structural adjustment on gender relations. Women and men feel the effects of SAPs in a variety of ways: increases in the price of food, declines in real family incomes and reductions in social and health services. These directly affect women's role as principal homemakers. 57/ There has been an increase in female-headed families in many developing countries undergoing adjustment policies where men are obliged to migrate in search of jobs.

86. In the case of agricultural strategies of SAP, women farmers do not automatically benefit. The incentive effect of increased crop prices for women farmers has been eroded by increases in the prices of consumer goods and agricultural inputs in Zaire and Tanzania. 58/ After the removal of fertilizer subsidies, women subsistence farmers in Cameroon and Malawi who traditionally did not market their products can no longer afford to buy fertilizer due to lack of cash. Without chemical fertilizer, there will be

less production of fertilizer-responsive crops like maize. 59/ The general pattern is that positive effects of SAPs on women farmers depend on the availability of public services and infrastructure, such as transport to local markets. 60/

2. Children

87. The continued economic and social marginalization of the poorest nations, and of the poorest communities within nations is depriving far larger numbers of children of the kind of childhood which would enable them to become part of tomorrow's solution rather than tomorrow's problem. In the last 20 years, falling commodity prices, poor returns in investment, the debt crisis and structural adjustment programmes, have reduced the real incomes of approximately 800 million people in some 40 developing countries. In Latin America, the fall in income has been as much as 20 per cent. In sub-Saharan Africa, real incomes are lower than they were at the time of independence in the early 1960s. At the same time, cuts in essential social services have meant health centres without drugs and doctors, and schools without staff and supplies. Through such processes, millions have become destitute and desperate. 61/ As a result, more and more children are dying because programmes that fund immunization and safe drinking water have been drastically cut. Diarrhoea, cholera and other communicable diseases continue to claim the lives of millions of children needlessly.

88. Although data are fragmentary, there are indications of increasing child labour in agriculture and sweatshops with obvious negative effect on the health and education of the children. Child abandonment and vagrancy are also on the rise in many third world nations whose economies have collapsed and whose government budgets for social services have been drastically cut. The number of street children has increased dramatically in adjustment countries. Crime, glue-sniffing, ill health, and general deterioration of the lives of children mark this growing phenomenon. In South Asia, under the export-led model of development, children are being made to do slave labour in the carpet, garment and glass industries, often in inhumane working conditions, and a growing number are increasingly drawn to the degrading sex trade industry.

3. Families

89. Families have disintegrated as fathers become migrant workers. Migrants have increased as smallholders lose their land and cannot support families on infertile or tiny plots. Migrants also become the key transmitters of deadly diseases such as AIDS. This is also true with the increased flow of young women to export processing zones.

4. Youth

90. In the majority of developing countries, high fertility levels and declining infant mortality rates have combined to produce a young population and a concomitantly high dependency ratio. The problem has reached staggering proportion in sub-Saharan Africa where, in 1996, 45 per cent of the estimated total population was comprised of children under 15 years of age. In real terms, there were 20 non-active dependents for every 100 active

persons. High rates of population coupled with the youthful character of the region's population have imposed serious constraints on efforts made over the last three decades to achieve rapid socio-economic development in the region.

91. The very grave socio-economic conditions since the early 1980s, aggravated by the policies of structural adjustment, would mean that the youth population would be adversely affected more than other population groups by problems of poverty, unemployment, rural-urban migration, the inadequacy of and pressures on educational opportunities and health facilities, malnutrition, increased crime and social unrest. The ILO estimates that in developing countries of Africa, Asia and Latin America, urban unemployment rates for young people often reach over 30 per cent. 62/ And when the destitute are increasingly young, uprooted, urbanized, knowing far more about the world than their parents did and expecting far more from it, then the almost inevitable result is an increase in social disintegration, ethnic tensions and political turbulence. Inevitable also is the rise of crime, violence and drug abuse. Thus, according to UNICEF, an "underclass is being created, uneducated and unskilled, standing beneath the broken bottom rungs of social and economic progress". 63/

5. Peasants and agricultural labourers

92. Adjustment programmes, while improving output for export crops, have often aggravated poverty and income inequalities in rural areas. The emphasis on export agriculture means a neglect of subsistence farmers who make up the majority of farmers in many third world countries. 64/ The removal of subsidized credits and fertilizers has at times led to severe shortages of essential agricultural inputs for debt-ridden small farmers, further undermining productivity. While the lifting of government controls that have kept urban prices of many agricultural products quite low has been beneficial to farmers, such resulting price increases are seldom passed on to agricultural workers on fixed salaries.

6. Urban workers

93. For urban workers, economic recession and the accompanying policy changes brought about by SAPs have resulted in a significant erosion of their purchasing power and their overall standard of living. Rising costs for food, rent, medicine and transport, when combined with wage freezes, have forced many to resort to the informal sector to supplement formal-sector income. In many countries, the divestiture of public enterprises has resulted in thousands of people losing their jobs permanently without being offered severance packages to start life in the private sector.

94. In Zambia, for example, employment in the parastatal sector dropped from 176,000 in June 1992 to 149,000 in June 1994. 65/ The downward spiral in living standards for well-educated urban workers continues to exacerbate the already severe "brain-drain" that has become a haemorrhage in many poor countries. As the best and brightest depart public service, the capacity of Governments to implement reform measures is severely undercut.

7. Domestic entrepreneurs

95. Many entrepreneurs producing for domestic markets have gone bankrupt as policy incentives shifted to favour exporters. Elimination of protective tariffs and difficulty in obtaining foreign exchange for vital raw material and machinery imports have accelerated liquidation of small and medium-sized enterprises. While devaluation of the national currency increases the cost of vital imports, increased interest rates further restrict the capacity of small enterprises to expand their operations. In the process, tens of thousands are thrown out of work.

G. Adjustment with a human face

96. In response to its critics who charge that adjustment has heightened poverty, the World Bank now incorporates social protection and safety net programmes, known as "social dimensions of adjustment", designed to shield the poor from the ill effects of structural adjustment. However, these programmes are found to be too little, too late to tackle the structural causes of poverty and powerlessness in any significant way. Social dimension programmes are largely palliative measures, and they are viewed by some as an attempt by the World Bank and politically vulnerable regimes to "appease the poor" who are increasingly organizing themselves to challenge these policies and the character of the regimes who accept them. The concerns of civil society organizations have been economic (unemployment, declining real wages), social (cuts in welfare services) and political (repression, lack of human rights) - all testimony to the misdirection of resources and absence of accountability.

H. Creditor strategy: too little, too late and too austere

97. Since the mid-1980s, some steps have been taken to address the debt problem of developing nations. Multilateral institutions and bilateral donors have supported commercial debt reduction schemes. Official (government) creditors have cancelled grant debts owed to them. And creditor Governments have agreed on a series of measures such as the Toronto terms, the Trinidad terms and, in 1995, the Naples terms. Although these measures have helped reduce debt, many highly-indebted poor countries are still left with the bulk of their debt. For example, only $7 billion of the debt of sub-Saharan African countries have been forgiven, leaving $150 billion to be dealt with.

98. With respect to the massive debt owed to commercial banks by the Latin American countries, the response was swift, as both the 1985 Baker Plan and the 1989 Brady Plan demonstrated. Considering the magnitude of the debt and the threat to the Western banking system, commercial banks were obliged to make new loans so that debtor nations could avoid falling behind on their interest payments to the banks. In addition, the IMF would lend modest amounts of its own funds and ensure that debtors were implementing essential economic reforms. Besides a fresh infusion of funds, debtors were given as much as 14 years in which to repay their maturing loans.

99. The debt of poor developing countries was not given as much attention since the debt was spread among many bilateral donors and its impact on the health of the global financial system was minimal. Proposals such as those

from former French President François Mitterand at the Toronto Economic summit of the G-7 (Toronto terms), and the United Kingdom Chancellor of the Exchequer, Nigel Lawson, at the April 1987 meeting of the joint Development Committee of the World Bank and the IMF, to relieve the bilateral debt of poor African countries became more and more common as debtor nations lagged further behind in their debt payments.

100. In December 1987, the IMF tripled the SAF to create the Enhanced Structural Adjustment Facility (ESAF), with G-7 governments (excluding the United States) and Saudi Arabia providing the capital and a fund to subsidize interest rates on debt owed to multilateral institutions. This is not an injection of new development money into the debtor countries.

101. In September 1988, the World Bank announced interest payment relief for 13 low-income African nations on World Bank loans they had received in earlier years. The fund was used to refinance $650 million of the $700 million due, using repayment on past International Development Association (IDA) loans and contributions from Norwegian and Swedish aid budgets. In other words, bilateral contributions are being used to pay off the IMF and World Bank since they are first in line to be paid from these funds.

102. Germany, France, and Sweden cancelled export credits while Canada and the Netherlands cancelled aid loans. Following an announcement in May 1989, France cancelled official debt of all low-income African countries.

103. Despite the G-7's many declarations for action to reduce the debt stock of severely indebted poor countries, most of whom are in Africa, progress at the level of the Paris Club has been extremely slow. The Toronto terms have been applied sparingly. So far, however, extensive default by debtor nations has been prevented only by repeated rescheduling operations, in which official creditors have allowed interest and future charges to accumulate by deferring payments. These merry-go-round exercises have fuelled rather than alleviated the debt crisis by contributing to the unsustainable build-up of arrears. Over 40 per cent of the non-concessional debt owed by sub-Saharan African countries to the industrialized countries represents deferred interest payments capitalized by the Paris Club and added to the total debt stock.

104. At the end of 1994, the Paris Club agreed to go for the "Naples terms" which would provide a 67 per cent debt stock reduction for the low income countries meeting their criteria (which, by the way, does not include human rights criteria to qualify). The Naples terms are intended to act as an "exit" mechanism, which means that they are only granted on the understanding that the debtor country will not seek further debt relief. Not surprisingly, few countries have opted to take advantage of this due to rigid criteria - including full compliance over three years with an IMF programme - and the exclusion of both post cut-off and previously rescheduled debt stock.

105. The problem with the numerous highly publicized debt reduction schemes, such as the Trinidad and Toronto terms, is that they do not include provisions for dealing with the growing multilateral debt problem. The articles of Agreement of the World Bank and the IMF do not permit the cancellation or rescheduling of debt owed them.

I. The Heavily Indebted Poor Countries (HIPC) debt initiative

106. In October 1996, however, the World Bank and IMF reached an agreement on the first comprehensive debt-reduction mechanism for the poorest countries. The initiative is designed to reduce the debt of 41 heavily-indebted countries (33 in Africa, 4 in Latin America, 3 in Asia and 1 in the Middle East) over a period of about six years to a level that each country can afford, called a "sustainable" level.* Eligibility is limited to countries that are granted access to the ESAF. During that time, the country has to implement economic policies supported by the World Bank and the IMF. The HIPC initiative allows some flexibility so that a country that exceeds the criteria established by the World Bank and IMF might be eligible for relief in a shorter time. So far, only seven countries have secured agreement: Uganda, Bolivia, Burkina Faso, Guyana, Côte d'Ivoire, Mozambique and Mali. Uganda has been the first to complete the process, receiving additional debt relief of nearly $650 million. 66/

107. Critics believe that the HIPC initiative does not go far enough. Many more countries that badly need help will not be eligible under the plan's stringent criteria for years to come. For example, Benin and Senegal, two relatively poor countries, have been excluded since their debts have been judged sustainable. 67/ The qualifying criteria includes a record of six unbroken years of good economic performance achieved during the two-stage process. The first stage is the Naples terms and entails a rescheduling of debt-servicing obligations to Paris Club countries on Naples terms. At the end of that period, the debtor may be accorded a reduction of debt of up to two thirds. At this point, a decision can be made on whether the second stage is needed.

108. Eligibility criteria for the second stage of the initiative, which could reduce debt-servicing obligation by up to 80 per cent (13 percentage points beyond that accorded under the Naples terms), are much higher and relief is granted on a case-by-case basis. Eligible countries are required to establish a second three-year track record under a Bank/IMF-supported structural adjustment programme. In addition, the goal of the HIPC initiative is debt sustainability figures at artificially high levels. At best, this plan might restore a country's ability to repay loans without giving sufficient attention to the human and environmental sacrifices required to do so. The initiative simply does not take into account human development and poverty eradication issues in the debt sustainability analysis.

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* Sustainability is defined as the ability "to meet current and future external debt service obligations in full without recourse to debt relief, rescheduling of debt or the accumulation of arrears, and without unduly compromising growth".

109. The inadequacy of the HIPC initiative becomes obvious when one examines the debt relief granted to Mozambique on 7 April 1998. The deal, which took more than a year of intense negotiation, was expected to free up vital resources which Mozambique needs for education, health and clean water. In reality, however, figures obtained from the British Treasury and the IMF by the Jubilee 2000 coalition show that Mozambique's post-HIPC debt service payments were identical to the pre-HIPC ones, averaging $113 million per year. Although the HIPC initiative is being promoted as an "exit" from the debt trap, countries will continue to pay that part of the debt which is considered unpayable. 68/

III. ADJUSTMENT WITH TRANSFORMATION

A. Changing course: proposal for an alternative strategy

110. Poverty, marginalization and widespread alienation remain the most significant and pervasive problems facing many indebted countries in the third world and East European countries. These problems cannot be adequately addressed until the current approach to structural adjustment is fundamentally altered.

111. Macroeconomic reforms such as devaluation, pricing policy, and budget and tax reforms are necessary components of a balanced and integrated national development strategy. But implementation of these policies will have little impact on long-term sustainable development, sound management of natural resources, or on the reduction of poverty and inequality unless accompanied by fundamental transformation of unjust economic and political structures both at national and global levels. In short, a realignment of economic structures is as much a matter of realignment of power structures which, more often than not, will be resisted by powerful social and political groups within a given country or powerful forces in the global economy.

112. Some third world leaders and Western donors insist that restoring growth and repaying the debt will resolve the larger development problem in the shortest time possible. But that will merely maintain the ties of dependency on the market system, and growth is restored at great cost to the majority of poor people. It may get things back to "normal", but "normal" is exploitative and immoral when the laws of the market prevail unregulated and in the absence of support programmes for those in need. Almost 20 years of futile experiment with structural adjustment programmes has eroded the social welfare of millions of poor people across the third world and denied their economic, social and cultural rights.

B. Adjustment with transformation: underlying principles

113. An alternative "adjustment with transformation" should emphasize sustainable economic growth combined with social justice. 69/ This would entail adjusting economies to meet human needs and not vice versa. The Copenhagen Declaration on Social Development (para. 91), for example, called on Governments to ensure that, in structural adjustment programmes, social development goals are included; basic social programmes and expenditures are protected from budget reduction; and the impact of structural adjustment

programmes should be reviewed and altered to reduce their negative effects and improve their positive impacts. Furthermore, adjustment with transformation should have the following elements:

1. Promoting human development and gender equality

114. "Adjustment with transformation" should be geared to start the broad process of human development and empowerment. Empowerment is the very essence of human development, not just a means to an end. 70/ Political and economic reforms in the third world must seek to empower ordinary men and women to take charge of their lives, to make communities more responsible for their own development, and to make Governments listen to their people. The process of empowerment involves transforming the economic, social, psychological, political and legal circumstances of the currently powerless. It involves the development of autonomous and coherent popular organizations, and the defence of, and education about, the legal rights of the popular sector. It also involves a form of socio-economic and political restructuring which will remove the locus of power from the current custodians of State power, enable disadvantaged men and women to meet their basic needs and to fully participate in decision-making, and provide opportunities to challenge internal and external exploiters.

2. According priority to meeting basic human needs

115. "Adjustment with transformation" must place emphasis on alleviating poverty and meeting the basic needs of the people, who are the principal resources to build on. The provision of health care, basic nutrition and education are the basic building blocks of a human-centred transformation strategy. Malnourished people unable to receive health and educational services are in no position to improve their own well-being or indeed contribute productively to the nation. Nutritional imbalances are as crucial as trade imbalances, and high infant mortality rates require the same immediate action as high rates of inflation. Therefore, how countries incorporate human concerns should be an integral part of their adjustment programmes. This implies a critical look at existing models - primarily export-led growth - currently promoted by international financial institutions. 71/ Export-led growth has carried as a corollary the erosion of basic human needs. The cooperation of third world Governments with local and international private interests in a triple alliance has meant that none of the three is beholden to or likely to serve the needs of the poor. Encouraging developing countries to become self-reliant in food production is a key component needed to ensure that countries can weather balance-of-payments storms with their people's welfare intact.

3. Ensuring democratic representation and decision-making

116. "Adjustment with transformation" must ensure that the people have a significant voice in shaping how development policies in general are formulated and implemented. There is rarely commitment by the people to any policy which is imposed from above or from outside by those who assert that they have the knowledge and arrogate to themselves the authority to decide for others. Participation is a human right. People should be enabled to reflect on their own problems and to articulate their own ideas of solutions to such

problems. Only if this is done can development be seen as a liberating process, one which creates conditions for people and societies, particularly those presently oppressed and marginalized, to identify their own needs, mobilize their own resources and shape their future. Adjustment programmes must, therefore, inspire, mobilize and engage the initiative and resourcefulness of the poor for productive efforts. This approach demands their democratic participation in decisions concerning their lives and their future.

117. At the international level, democratization and social reform in the third world are contingent upon the degree of internal change in the core countries and their institutions. International financial institutions, so long dominated by the G-7 countries, need to be democratized. Currently, representation and voting in the Bretton Woods institutions are based on economic power: "one dollar, one vote". Thus the G-7 exercise dominant influence over these institutions' decisions, while the vast majority of poorer countries have no real power at all. As a result, these institutions continue to enforce their own definitions of development around the world with little regard for the consequences of their policies on the majority of poor people in developing countries. Ideally, institutions like the IMF and informal forums like the Paris Club should be reshaped to ensure that non-governmental organizations of debtor countries - such as peasant and workers' unions - have input into fashioning their countries' adjustment programmes. Until large numbers of informed citizens demand these changes, it will be very difficult to affect decision-making in the multilateral institutions.

4. Guaranteeing fair reward for labour

118. This principle is relevant to all institutions governing the world economic order, whether they govern finance, trade or development. At the level of national economies, the world economic system should guarantee fair and remunerative prices to developing country producers of raw materials, and institutions governing world trade should be reformed or built anew to further this principle. For the debtors of our era, just as in the 1930s, it is catch-22. Countries struggling to export their way out of the debt crisis ought at least to earn a fair price for their wares, and be able to sell them without undue encumbrance. Neither condition holds true today. Raw material prices have fallen drastically. The IMF's own data prove this. Prices for the 34 commodities expressed in Special Drawing Rights, the Fund's composite currency that avoids the distortions of an oscillating dollar, dropped by 13 per cent in 1990 alone. 72/

119. At the level of the individual labourer, decisions by the multilateral institutions should not undermine labour rights. Currently, IMF programmes often seek to reduce real wages and reinforce government repression of workers seeking better wages or working conditions.

5. Equitable sharing of the debt burden

120. Democratic treatment and accountability implies greater equity in sharing the burden of adjustment both at the local and international level. The costs of the $1.5 trillion third world debt will be paid by someone. They

must, however, be lifted from the poorer majorities who have had the least role in creating the crisis. The burden must be shared more equitably among countries as well as social groups and the world's transnational bank lenders. This requires an end to disguising the problem, to maintaining the fiction that the bulk of these loans are still "performing" in any meaningful way.

121. It is on the foundation of these principles that the range of proposed solutions to the social and economic crisis are assessed, and that new proposals for advancing human-centred development are offered.

IV. RECOMMENDATIONS

A. Actions to be taken at the international level

1. Debt cancellation for the heavily-indebted poor countries

122. Significant debt reduction is necessary for the recovery and resumption of growth in many poor indebted countries. Priority should be given to: (i) countries emerging out of years of devastating civil war (so-called post-conflict countries); and (ii) countries that have been devastated by natural disasters. Even for countries not classified as severely indebted, the debt overhang poses tremendous constraints to growth. However, any debt-cancellation programme must have broad-based citizen support and be consonant with a national economic plan that is formulated with broad consultation with all the relevant national actors, particularly civil society organizations. This is a proposal currently being pushed by the Global Jubilee 2000 campaign on debt reduction.

123. Western Governments can take a lesson from a proposal under consideration by the United States House of Representatives. The United States branch of the Jubilee Campaign has introduced legislation to the 106th Congress which contains the following: 73/

(a) The legislation provides for the cancellation of bilateral debt owed by poor countries to the United States Government for concessional loans or credits given through United States foreign assistance or agricultural development programmes;

(b) The legislation also authorizes at least a 90 per cent reduction of debts owed the United States by poor countries as a result of non-concessional (market rate) loans, guarantees, or credits provided through United States foreign assistance, arms sales, commodity programmes or export promotion underwriting;

(c) The legislation gives priority to countries which have demonstrated a sustained commitment to poverty alleviation or have recently suffered a major natural disaster, but it excludes countries with excessive military spending, gross violations of human rights, blatant drug trafficking or ethnic conflicts;

(d) The legislation requires countries to establish, through transparent and participatory process, a Human Development Trust Fund whose resources will be dedicated to reducing the number of persons living in

poverty, expanding access of the poorest members of society to basic social services, including education, health, clean water and sanitation, and preventing the degradation of the environment.

2. Instituting human rights conditionality in future lending

124. While "conditionality" is a contentious issue as it is considered to be undermining the sovereignty of nations, it is desirable as long as it is based on "human development" and "human rights" criteria, and on broad consultation with civil society organizations and national Governments. This requires greater transparency and accountability by lenders, particularly the World Bank and the IMF. The secrecy surrounding adjustment programmes should be eliminated. Specifically, all letters of intent to the IMF should spell out the projected impact of economic adjustment policies on jobs, wealth distribution and basic needs.

125. Conditionality ensures that debt relief provided is used effectively and not squandered on corruption, military expenditure and grandiose projects with little if any benefit in terms of sustainable growth or poverty reduction. Each country should establish a monitoring unit composed of representatives of Government, donors and civil society to monitor compliance by Governments.

3. Establishing international mechanisms to retrieve money stolen by corrupt leaders

126. The pressure of debt on some poor countries can be eased if an international effort is mounted to retrieve large sums of money taken away illegally by many corrupt third world leaders. This will require the same level of attention, if not more, by Western countries as they give to the tracking of money laundered through commercial banks by drug traffickers. The recent decision by the Swiss Government to compensate survivors of the Nazi holocaust for stolen gold and money deposited in Swiss banks could be used as a precedent for doing the same with large sums of money taken away by third world elites.

4. Reform of the international economic, financial and trade systems

127. Long-term development in indebted countries is impossible without a basic restructuring of world financial, monetary and trade systems. Much more effort by the international community will be required to establish a more propitious trading and financial climate within which debtor nations can hope to increase their exports and attract various forms of financing needed to achieve a positive momentum in their economic development. Measures to end recession, to stimulate trade and ease financial constraints should be considerably more important than aid transfers. Specifically, ensuring fair prices for commodities and market access for these products are of dominant importance. This requires structural changes in the field of primary commodity trade, by giving the least developed better access to Northern markets, encouraging more processing of their commodities before export, and extending the preferential treatment now accorded them.

5. Natural resource preservation

128. Future lending should be made conditional on assessing its impact on the environment and the resource base the poor depend on. The financing of large dams that would result in displacement of large numbers of people and ruin the ecosystem should be discouraged if possible. Projects of that magnitude should not be contemplated without proper consultation with the affected communities.

B. Action to be taken at the regional level

129. At the regional level, the need for much stronger coordination and cooperation on many aspects of economic development must be given much more emphasis. The potential benefits from increased intraregional trade in agricultural and industrial items, in many areas of services (transport, communications, tourism, etc.), in financial matters, and on research into agriculture and health, for example, are very considerable indeed. Unfortunately, the orthodox SAP approach deals with each country individually and without taking into consideration the need to strengthen regional cooperation and more efficient use of resources through sharing.

130. In a world economy dominated by powerful regional economic blocs, enhanced regional integration, particularly in Africa, would enable countries to expand regional trade and enhance closer coordination in broad areas of economic policies. Cooperation would offer conditions under which local specializations can take place, fully exploiting local (as opposed to global) comparative advantages by combining their assets and sharing resources. It would allow complementarities to emerge across regions and reduce high production and marketing costs. Therefore, "structural adjustment with transformation" should give due emphasis to regional cooperation.

C. Action to be taken at the national level

131. Structural adjustment with transformation at the national level must emphasize economic growth that is oriented towards improvement in human development. Without growth, it is difficult to create jobs and increase wages. But the links between economic growth and human development depend on the following:

(a) Renewal of democratic forms of government. A credible policy framework to promote economic growth and human development in indebted countries, particularly in Africa, must address issues relating to the political climate. The key elements of such an environment are political stability, rule-based political order mediated by an impartial and independent judiciary, and good governance, with particular emphasis on transparency and accountability. Decentralization and the strengthening of key government institutions are essential for opening up new avenues for people's participation in national politics. Democratization, combined with empowerment of people, holds the key to sustained and broad-based socio-economic growth and transformation. By checking corruption and incompetence, the participation of informed people ensures the most efficient utilization of scarce resources and that they are employed in the promotion of human development;

(b) Creating a climate for equitable economic growth. Emphasis on market reform alone cannot provide an "economic miracle"; also required is strong cooperation between both the State and civil society. An effective strategy of poverty reduction must include increasing investment in rural infrastructure and improving access of the poor to productive assets, such as land and credit. Better price incentives, improving the efficiency of markets, swift steps to deal with unproductive government expenditures, better selection of public investment projects, containing monetary pressures, maintaining a realistic exchange rate, etc., are all necessary components of growth with equity. The important role of the private sector (particularly the domestic private sector) must also be recognized and promoted. In short, the State must create an enabling environment for citizens to save, invest and produce;

(c) Ensuring food security. Fundamental economic restructuring in poor indebted countries must give priority to transformation of peasant agriculture by shifting significant levels of national resources to support this sector and by reversing the balance of power from central administration to community control of decision-making. Priority should be assigned to food and livestock production and distribution (including for export), and attention should be given to ensuring that not only is food available but also that the people have the means to acquire it. This in turn leads to the need for providing either employment or accessibility to productive land, which in turn implies the necessity for improving agricultural extension, credit and training, as well as sectors in support of agriculture, including the development of agro-related industries, and the improvement of transport and other physical infrastructure in rural areas;

(d) Support for the informal sector. In many countries, the informal sector plays a significant role in generating employment and income for millions of people while providing necessary services. A strategy of adjustment with transformation should be directed to encourage this sector by removing inhibiting legal regulatory customs and by developing sources of credit, training and marketing channels.

D. Structural adjustment in post-conflict countries

132. Economies wrecked by years of war, famine and/or military dictatorships, which lack infrastructure and management skills, cannot overnight adjust to the changing dynamics of the global economy. The primary objective of external and local efforts in post-conflict countries should, therefore, be the establishment of peace with justice. It is unrealistic to ask countries like Rwanda, Somalia or Sierra Leone to embrace an "orthodox" adjustment programme to rebuild their devastated economies when healing the deep scars of war and genocide alone is such a daunting task.

133. Of the 33 heavily indebted poor countries in Africa, 12 are currently engaged in war or are struggling to put their houses in order after years of war. The task of peace-building and reconstruction in these countries is extremely difficult. Reconstruction faces the dual challenges of reactivating the economies of the ex-conflict countries while promoting reconciliation among those who were life-and-death adversaries during the war. Establishing a functioning civil administration, ensuring security to returnees and

displaced persons, providing basic food and shelter are all daunting tasks which cannct be remedied by adopting conventional structural adjustment programmes. How these challenges are handled will set the tempo for reconstruction, demobilization, reintegration and peace-building efforts.

134. The task of formulating peace in post-conflict countries must go hand-in-hand with human development and ecological restoration. This will require an "economic compact" that will give thousands of militia members and marginalized youth conditioned to surviving by force, an alternative to the AK-47. Growth that is oriented towards human development is most easily achieved by increasing the capacity utilization of existing productive assets, massive investment in people, reconstruction and rehabilitation of neglected infrastructure through public works employment programmes, and the institutionalization of democratic governance.

Notes

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Table 1 - External debt of developing countries

Abbreviations: LA - Latin America; SSA - Sub-saharan Africa; AC - All countries

Total external debt (in billions of dollars)

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Total	980.2	1 186.2	1 110.6	1 165.7	1 251.4	1 320.6	1 381.5	1 472.3	1 584.7	1 715.6	1 825.7
LA	428.5	469.0	456.0	452.8	474.9	491.7	508.8	550.8	585.7	636.6	656.5
Africa	229.2	266.4	271.4	279.6	288.8	290.8	286.7	288.8	308.7	328.9	340.5
SSA	92.0	111.5	113.2	119.5	135.4	141.3	144.2	148.6	155.4	165.2	167.0
Asia	343.1	394.7	406.5	458.9	517.0	562.8	610.8	658.9	719.2	775.5	856.9

Ratio of debt to GNP (debt indicator in %)

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
AC	44.3	49.3	44.8	43.0	41.8	42.3	41.1	42.0	40.4	39.5	37.0
LA	63.4	65.5	56.4	49.9	46.5	45.5	42.6	41.4	38.6	41.0	41.4
Africa	64.1	70.8	70.8	72.3	68.4	70.5	68.0	70.1	75.6	75.3	68.7
SSA	77.6	87.9	89.0	93.2	101.0	110.3	116.0	133.0	158.8	149.9	123.9
Asia	26.6	31.3	29.0	29.9	30.2	31.4	32.0	34.2	33.2	30.7	28.2

Ratio of external debt to exports (debt indicator in %)

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
AC	266.6	253.6	223.9	212.2	198.7	199.4	191.6	191.8	178.5	168.2	164.3
LA	370.3	361.4	309.9	273.8	256.5	261.8	253.0	255.5	214.5	213.0	202.8
Africa	253.3	263.7	258.1	243.6	209.9	219.2	208.4	219.9	232.9	21.8	210.0
SSA	310.6	347.6	332.7	327.5	334.2	378.2	380.4	406.2	411.9	400.7	340.4
Asia	166.6	155.8	139.8	141.5	134.4	134.9	132.6	134.9	125.8	120.3	121.7

Ratio of debt service to exports (debt indicator in %)

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
AC	32.3	28.7	26.9	24.0	21.4	20.4	20.5	20.9	18.8	18.6	19.2
LA	42.0	36.0	36.9	30.1	24.5	24.3	26.3	28.4	25.5	26.3	30.0
Africa	28.2	22.8	25.2	23.4	22.5	22.3	22.3	21.3	18.6	17.3	14.8
SSA	25.4	23.8	23.0	19.9	18.5	19.0	16.5	15.6	18.3	22.5	18.0
Asia	23.2	23.2	19.4	18.2	16.3	15.1	8.7	9.1	8.9	8.3	8.1

Debt service payments (in billions of dollars)

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
AC	118.6	125.4	133.6	132.1	135.6	134.8	147.6	160.5	166.7	189.8	213.3
LA	48.6	46.8	54.5	49.8	45.4	45.7	52.9	61.2	63.6	78.5	97.3
Africa	25.6	23.1	26.5	26.6	31.0	29.5	30.7	27.9	24.7	25.6	24.0
Asia	47.7	58.7	56.4	59.0	62.6	62.9	68.1	74.2	83.0	89.1	95.3

Source: Compiled from World Economic and Social Survey 1997, United Nations, New York, 1997, Tables A.36, A.37.

Table 2. IMF financial arrangements in effect at the end of financial years ending 30 April 1975-1998

Financial years	Number of arrangements as of 30 April				
	Stand-by	EFF	SAF	ESAF	Total
1975-1980	102	20	-	-	122
1981-1985	132	51	-	-	183
1986-1990	98	117	51	82	202
1991-1995	86	33	28	99	246
1996-1998	49	31	19	61	77

Source: Compiled from table 11.2, IMF Annual Report 1998.

Table 3. Heavily indebted poor countries

AFRICA: 30 COUNTRIES, TOTAL DEBT: $156 BILLION
(* Countries at war or in a post-conflict situation)

Angola*
Benin
Burkina Faso
Burundi*
Cameroon

Central African Republic*
Chad*
Côte d'Ivoire
Democratic Republic of the Congo*
Equatorial Guinea

Ethiopia*
Ghana
Guinea
Guinea-Bissau*
Kenya

Liberia*
Madagascar
Mali
Mozambique*
Niger

Nigeria
Rwanda*
Sao Tome and Principe
Senegal
Sierra Leone*

Somalia*
Sudan*
Uganda
United Republic of Tanzania
Zambia

LATIN AMERICA: 4 COUNTRIES, TOTAL DEBT: $17 BILLION

Bolivia
Guyana
Honduras (natural disaster)
Nicaragua (natural disaster)

ASIA: 3 COUNTRIES, TOTAL DEBT: $34 BILLION

Lao People's Democratic Republic
Myanmar (potential breakdown)
Viet Nam

MIDDLE EAST: 1 COUNTRY, TOTAL DEBT: $6 BILLION

Yemen (potential breakdown)

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Fifty-fifth session
Agenda item 10 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Report of the open-ended working group on structural adjustment programmes and economic, social and cultural rights on its second session

(Geneva, 1-3 March 1999)

Chairperson-Rapporteur: Ms. Lilia Bautista (Philippines)

GE.99-11381 (E)

Introduction

1. The second session of the open-ended working group on structural adjustment programmes and economic, social and cultural rights was held at th Palais des Nations, Geneva, from 1 to 3 March 1999, pursuant to Commission decision 1998/102. The session was opened by a representative of the High Commissioner for Human Rights. The working group held three plenary meetings during the session.

2. The working group consisted of the following representatives of States members of the Commission on Human Rights: China, Colombia, Cuba, El Salvador, France, Germany, Guatemala, India, Italy, Mexico, Pakistan, Philippines, Poland, Rwanda, Sudan and Venezuela.

3. The following observers from other States Members and non-members of th United Nations attended the session: Australia, Brazil, Iran (Islamic Republic of), Malaysia and the Holy See.

4. The following United Nations bodies and specialized agencies were also represented: Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Non-Governmental Liaison Service (UN/NGLS), and United Nations Educational, Scientific and Cultural Organization (UNESCO).

5. Representatives of the following non-governmental organizations attende the session: American Association of Jurists, Centre Europe-Tiers Monde, Indian Movement "Tupaj Amaro", International Commission of Jurists, International Movement of Apostolate in the Independent Social Milieus (MIAMSI) and the International Organization for the Development of Freedom of Education (OIDEL).

6. At its first meeting, the working group elected Ms. Lilia Bautista (Philippines) as Chairperson-Rapporteur.

7. The working group adopted the following agenda, on the basis of the provisional agenda (E/CN.4/1999/WG.17/1):

1. Election of officers.

2. Adoption of the agenda.

3. Implementation of Commission on Human Rights decision 1998/102, entitled "Effects of structural adjustment policies on the full enjoyment of human rights".

8. The following documents were before the working group:

Symbol	Title
E/CN.4/1999/WG.17/1	Provisional agenda
E/CN.4/1997/20	Report of the open-ended working group on structural adjustment programmes and economic, social and cultural rights on its first sessic
E/CN.4/1998/26	Note by the Secretariat (19 March 1998)

Other documents

Advance unedited version of the study by the independent expert on the effects of structural adjustment policies on the full enjoyment of human rights (future E/CN.4/1999/50);

Bangladesh Opening National SAPRIN (Structural Adjustment Participatory Review Initiative) Forum (draft)/20-22 October 1998;

Ecuador Opening National SAPRIN Forum (draft)/14-15 January 1999;

El Salvador Opening National SAPRIN Forum (draft)/27-28 August 1998;

Ghana Opening National SAPRIN Forum (draft)/10-12 November 1998;

Hungarian Opening National SAPRIN Forum/6-8 June 1998;

Ugandan Opening National SAPRIN Forum/18-19 June 1998.

9. In order to facilitate the work of the working group, the Chairperson-Rapporteur suggested, and it was agreed, that the working document be the advance unedited version of the study by the independent expert, Dr. Fantu Cheru, on the effects of structural adjustment policies on the full enjoyment of human rights (future E/CN.4/1999/50).

I. GENERAL DISCUSSION

10. At the 1st meeting, on 1 March 1999, the Chairperson-Rapporteur noted that the Commission on Human Rights, in decision 1998/102, had mandated the working group "to consider the report of the independent expert and the comments received thereon". Due to time constraints and circumstances beyond the control of the secretariat, it had not been possible for the report to be circulated for comments by the intended parties as required by Commission decision 1997/103. The participants therefore agreed that more time was needed in order for the working group to consider the report and the comments that might be received thereon, particularly from the World Bank and the IMF.

11. At the 2nd meeting, the independent expert introduced his report outlining that:

(a) Structural adjustment programmes (SAPs) have had two distinct impacts: at the economic level, they have led to a significant erosion of the living standards of the poor and investment in the productive sectors of many countries has dwindled while at the political level, large numbers of countries have ceded their right to determine their country's development independently;

(b) Whereas in the first phase (1980-1988) adjustment was linked to the management of the debt crisis, in the post-1990 political environment, adjustment has become a vehicle to complete the global economic

counter-revolution set in motion in the 1980s at the initiative of the United States of America, primarily to make the world safe for transnational corporations through deregulation, liberalization, and reducing the role of the State in national development. For the majority of indebted poor countries, globalization has instead pushed them to the margins of the world economy.

12. After having listened to the independent expert's presentation, participants made a number of preliminary comments and expressed certain concerns. They thanked Dr. Cheru for his report which they acknowledged to be comprehensive and useful. Several participants agreed with the concerns expressed in the report, made suggestions to further strengthen some of its chapters and asked for clarifications on certain elements contained therein. The independent expert provided substantive comments and responded satisfactorily to the questions posed. He also agreed to provide more detailed information at a later stage.

13. Several participants expressed concern about the focus of the report on the experiences of African countries and noted that the experiences and peculiarities of Latin America, Asia and Eastern Europe should also be taken into account. The report should be more representative of the patterns and problems in different regions of the world.

II. RECOMMENDATIONS

14. Bearing in mind paragraph 10 above and given the urgent need to foster closer cooperation between Governments, United Nations bodies and other international organizations, international financial institutions, in particular the World Bank and the IMF, and non-governmental organizations on an issue of critical importance to developing countries, particularly least developed and heavily indebted poor countries, the participants agreed to recommend to the Commission on Human Rights:

(a) To request the Secretary-General to circulate the study to Governments, United Nations bodies, in particular the regional commissions, the specialized agencies, intergovernmental organizations, non-governmental organizations, particularly those involved in development, and academic institutions and organizations representing disadvantaged and vulnerable groups, and to invite them to submit their comments thereon to the working group at its next session;

(b) To extend the mandate of the independent expert by requesting him to: (i) assist the working group in the fulfilment of its mandate, in particular by elaborating draft basic policy guidelines on SAPs; and (ii) monitor new developments, including actions and initiatives being taken by international financial institutions, other United Nations bodies, intergovernmental and non-governmental organizations with respect to structural adjustment policies and human rights, and to submit a revised report to the working group at its third session;

(c) To request the Economic and Social Council to authorize the open-ended working group to meet for two weeks well in advance of, but at least four weeks prior to, the fifty-sixth session of the Commission with the mandate to: (i) consider the updated report of the independent expert and comments received thereon; (ii) elaborate basic policy guidelines on structural adjustment programmes and economic, social and cultural rights which could serve as a basis for a continued dialogue between human rights bodies and the international financial institutions; and (iii) report to the Commission at its fifty-sixth session.

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PROMOTION AND PROTECTION OF HUMAN RIGHTS: STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Question of the death penalty

Report of the Secretary-General submitted pursuant to Commission resolution 1998/8

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Introduction

1. In paragraph 5 of its resolution 1998/8 the Commission on Human Rights requested the Secretary-General to continue to submit to the Commission, in consultations with Governments, specialized agencies and intergovernmental and non-governmental organizations, a yearly supplement on changes in law and practice concerning the death penalty worldwide, to his quinquennial report on capital punishment and implementation of the Safeguards guaranteeing the protection of the rights of those facing the death penalty.

2. The quinquennial reports on capital punishment and implementation of the Safeguards guaranteeing the rights of those facing the death penalty referred to in Commission on Human Rights resolution 1998/8 have been prepared under the auspices of the Centre for International Crime Prevention at the United Nations Office at Vienna (formerly the Crime Prevention and Criminal Justice Division of the Secretariat). To date, five such reports have been submitted, the most recent one in 1995 (E/1995/78 and Add.1). A report of the Secretary-General on this subject was also submitted to the Commission on Crime Prevention and Criminal Justice at its fifth session in 1996 (E/CN.15/1996/19), which consolidated the information contained in the fifth quinquennial report with additional information received up to March 1996.

3. The quinquennial reports are prepared on the basis of a detailed questionnaire sent to States. In addition to setting out the data received from States responding to the questionnaire, the report also draws on other available data including current criminological research, and information from specialized agencies and intergovernmental and non-governmental organizations.

4. The latest quinquennial report provides information on a number of issues regarding the death penalty in countries worldwide. This information includes changes in the status of the death penalty, numbers of death sentences carried out, ratification of international instruments restricting the scope of the death penalty, and the types of crimes for which the death penalty is provided. Pursuant to Economic and Social Council resolution 1989/64, the fifth quinquennial report also included information regarding the implementation of the Safeguards guaranteeing protection of the rights of those facing the death penalty, thus combining the reports on the death penalty with reports on the implementation of the Safeguards previously submitted to the former Committee on Crime Prevention and Control. The Safeguards include provisions relating to the types of crimes for which the death penalty might be imposed, persons who should be exempt from the application of the death penalty (e.g. children and the mentally disabled), and fair trial guarantees for those facing a possible sentence of death.

5. Pursuant to Commission on Human Rights resolution 1998/8, the Secretary-General requested information from all States on changes in law and practice concerning the death penalty. A similar request for information was sent to specialized agencies and intergovernmental and non-governmental organizations. Information was received from the following States: Antigua

and Barbuda, Armenia, Austria (on behalf of the European Union), Azerbaijan, China, Cyprus, Denmark, Kuwait, Lebanon, Malaysia, Mauritius, Nepal, Singapore, Trinidad and Tobago and Turkey. The amended information was also received from Amnesty International.

6. The present report will focus on changes in law and practice concerning the death penalty. Information regarding the extent to which the Safeguards are not respected in certain countries is often brought to the attention of the Special Rapporteur on extrajudicial, summary or arbitrary executions and included in his/her reports to the Commission on Human Rights.

7. The present report also includes information on measures taken by United Nations organs and bodies since that information was neither included in the last report nor in the reports of the Secretary-General on the capital punishment referred to above.

8. Following the practice adopted in earlier quinquennial reports, countries are classified as abolitionist, abolitionist de facto, or retentionist. Countries that do not contemplate the death penalty in their laws, either for any crimes (whether ordinary crimes or crimes in wartime or other exceptional circumstances) or for ordinary crimes only, are regarded as abolitionist. Countries that retain the death penalty for ordinary crimes but have not executed anyone during the last 10 years or more are considered abolitionist de facto. All other countries are defined as retentionist, meaning that the death penalty is in force and executions do take place, although in many retentionist countries such executions might be quite rare.

I. EXECUTIVE SUMMARY OF MEASURES TAKEN BY THE UNITED NATIONS AND THE POSITION OF STATES

9. The question of capital punishment has been considered in United Nations human rights organs and bodies since 1959. As far back as 1971 the General Assembly called on States to progressively restrict the use of the death penalty (resolution 2857 (XXVI)). In 1977, it reaffirmed this appeal in resolution 32/61. The desirability of the abolition of capital punishment has also been strongly recommended by the United Nations since 1977. Article 6 of the International Covenant on Civil and Political Rights affirms the right to life. While not prohibiting capital punishment as such, this article provides that a sentence of death may be imposed only for the most serious crimes in accordance with the law. The Human Rights Committee has observed that article 6 strongly suggests that the abolition of the death penalty is desirable. The entry into force in 1989 of the Second Optional Protocol to the Covenant was a step in this direction.

10. It is also significant to note that Security Council resolutions 827 (1993) of 25 May 1993 and 955 (1994) of 8 November 1994 on the establishment of international criminal jurisdictions for the former Yugoslavia and Rwanda, respectively, excluded the death penalty, and established that imprisonment was the sole penalty to be imposed by these tribunals for crimes of genocide and crimes against humanity.

11. At its fifty-third (1997) and fifty-fourth (1998) sessions, the Commission on Human Rights adopted resolutions 1997/12 and 1998/8 requesting

the Secretary-General to prepare a yearly supplement to his quinquennial report and to submit it to the Commission. Thus, the issue has become a regular item on the Commission's agenda. In its resolutions the Commission also called upon all States that still maintain the death penalty progressively to restrict the number of offences for which it may be imposed; to establish a moratorium on executions with a view to completely abolishing the death penalty; and to make available to the public information with regard to the imposition of the death penalty.

12. The Sub-Commission on Prevention of Discrimination and Protection of Minorities and its sessional working group on the administration of justice have also considered the evolution of capital punishment. Sub-Commission member Mr. El Hadji Guissé has submitted working papers on this issue (see, for example, document E/CN.4/Sub.2/1998/WG.1/CRP.3). The Special Rapporteur on extrajudicial, summary or arbitrary executions had included in his reports each year information on State practices regarding the implementation of the Safeguards guaranteeing the protection of the rights of those facing the death penalty.

13. The Human Rights Committee has examined and continues to examine under the Optional Protocol to the Covenant a large number of cases involving capital punishment. The Committee has adopted many final decisions ("views") on the merits of such complaints and in more than half of the cases has found violations of the provisions of the Covenant, especially paragraph 3 of article 14 of the Covenant which lays down minimum guarantees of defence. In some cases, the Committee has linked the violation of article 14 with a violation of the right to life (art. 6), and adopted what is by now a standard formula:

> "The Committee is of the opinion that the imposition of a sentence of death upon the conclusion of a trial in which the provisions of the Covenant have not been respected, and which could no longer be remedied by appeal, constitutes a violation of article 6 of the Covenant ... . Since the final sentence of death was passed without having met the requirements for a fair trial set out in article 14, it must be concluded that the right protected by article 6 of the Covenant has been violated". 1/

14. The High Commissioner for Human Rights continues to engage in a constructive dialogue with Governments in order to campaign for the limitation and elimination of the use of the death penalty. She has made several statements and declarations and sent messages concerning the imposition of the death penalty in a number of States (for the text of these messages, see the OHCHR website at www.unhchr.ch).

15. The information received shows two approaches towards the abolition of the death penalty. While the European Union fully supports the fight against violent crime, in its opinion, there is ample evidence that executions do not

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1/ Communication No. 282/1988 Leaford Smith v. Jamaica, views adopted on 31 March 1988, Official Records of the General Assembly, Forty-eighth Session, Supplement No. 40 (A/48/40), vol. II, annex XII.E, para. 10.6.

provide for less violent societies. Rather, the death penalty and its application tend further to brutalize and escalate social conflicts, thus diminishing the essential respect for human rights and dignity. At the Second Summit of Heads of State and Government of the Council of Europe (Strasbourg, October 1997), the heads of Government including those of all EU member States called for the universal abolition of the death penalty. New States members of the Council of Europe have also committed themselves to a moratorium on the death penalty and to ratify Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Finally, the EU decided, as an integral part of its human rights policy, to strengthen its international activities aimed at the abolition of the death penalty.

16. The Governments of Antigua and Barbuda, China and Trinidad and Tobago noted that Commission resolution 1998/8 reflected the views of the abolitionist States and that the voting record showed that there was no international consensus on the abolition of the death penalty. They pointed out that at the substantive session of the Economic and Social Council in July 1998, 52 delegations disassociated themselves from the resolution on that subject. In their opinion, the Commission on Human Rights in compiling the yearly updates duplicated the research and the reports prepared by the Centre for International Crime Prevention. The yearly updates therefore were unnecessary. These Governments also believed that the issue of the death penalty should remain within the framework of the Commission on Crime Prevention and Criminal Justice.

II. CHANGES IN LAW AND PRACTICE

17. Changes in law and practice concerning the death penalty may cover a number of different issues. Changes in law may include new legislation abolishing or reinstating the death penalty, or restricting or expanding its scope, as well as ratifications of international instruments that provide for abolition of the death penalty. Changes in practice may cover non-legislative measures with a significant new approach regarding the use of the death penalty; for example, countries may, while retaining the death penalty, announce a moratorium on its application, or after a de facto moratorium, resume executions. Such changes might also include measures to commute death sentences.

18. Based on the information received, the following changes in law and practice can be reported.

A. Countries which have abolished the death penalty since 1 January 1998

19. According to information received, Estonia abolished the death penalty in 1998. The Governments of Azerbaijan and Nepal reported that the death penalty was abolished in their States in 1988 and the criminal legislation was revised accordingly.

B. Countries restricting the scope of the death penalty or limiting its use since 1 January 1998

20. According to information received, in June 1998 the parliament of Tajikistan passed a new Criminal Code which would reduce the number of articles carrying a possible death sentence from 44 to 15. Under the new Criminal Code a death sentence could be commuted to 25 years' imprisonment. The new Criminal Code came into force on 1 September 1998.

C. Countries having ratified international instruments since 1 September 1997 that provide for the abolition of the death penalty

21. There are three international instruments in force which commit States parties to abolishing the death penalty. They are: the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at abolition of the death penalty; Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty; and the Protocol to the American Convention on Human Rights to Abolish the Death Penalty. Protocol No. 6 concerns abolition of the death penalty in peacetime. The two other protocols provide for the total abolition of the death penalty but allow States wishing to do so to retain the death penalty in wartime.

22. During the reporting period two States acceded to the Second Optional Protocol, namely Costa Rica on 5 June 1998 and Nepal on 4 March 1998. Four States ratified Protocol No. 6 to the European Convention, that is the Republic of Moldova on 12 September 1997, Croatia on 5 November 1997, Estonia on 17 April 1998 and Greece on 8 September 1998.

D. Countries establishing a moratorium on executions with a view to completely abolishing the death penalty

23. The Government of Armenia stated that in conformity with a presidential moratorium, no executions had taken place in Armenia since 1991 and no executions will be carried out until the adoption of the new Criminal Code abolishing the death penalty, at the end of 1998. According to information received, in September 1996, the President of Latvia announced to the Parliamentary Assembly of the Council of Europe that he would grant all requests for clemency submitted to him. In June 1998, following the retention by the Saeima of the death penalty in the new Criminal Code, the President stated that he would keep the moratorium on executions in place.

E. Countries reintroducing the use of the death penalty, extending its scope or resuming executions since 1 January 1998

24. It was reported by Amnesty International that on 2 June 1998 in the Central Prison of Addis Ababa the first execution was carried out since the overthrow of the Dergue (military government) in 1991.

III. STATUS OF THE DEATH PENALTY WORLDWIDE AS AT 1 DECEMBER 1998

The latest quinquennial report and the 1998 yearly supplement include a
ıber of tables showing the status of the death penalty worldwide. This
:tion reproduces some of these tables and updates them to include
velopments at the end of 1997 and in 1998, as well as making changes where
ditional information has become available.

Table 1. List of retentionist countries a/

fghanistan
lgeria
ntigua and Barbuda
rmenia
ahamas

ahrain
angladesh
arbados
elarus
elize

enin
otswana
ulgaria
urkina Faso
urundi

ameroon
had
hina
omoros
uba

emocratic People's Republic of Korea
emocratic Republic of the Congo
ominica
gypt
quatorial Guinea

ritrea
thiopia
abon
hana
uatemala

uyana
ndia
ndonesia
ran (Islamic Republic of)
raq

Jamaica
Japan
Jordan
Kazakhstan
Kenya

Kuwait
Kyrgyzstan
Lao People's Democratic Republic
Latvia
Lebanon

Lesotho
Liberia
Libyan Arab Jamahiriya
Lithuania
Malawi

Malaysia
Mauritania
Mongolia
Morocco
Myanmar

Nigeria
Oman
Pakistan
Qatar
Republic of Korea

Russian Federation
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines

Saudi Arabia
Sierra Leone
Somalia
Sudan
Swaziland

Syrian Arab Republic
Tajikistan
Thailand
Trinidad and Tobago
Tunisia
Turkmenistan
Uganda
Ukraine
United Arab Emirates
United Republic of Tanzania
United States of America
Uzbeskistan
Viet Nam
Yemen
Yugoslavia
Zambia
Zimbabwe

Total: 87 countries

---

a/ The countries or territories listed retain the death penalty for ordinary crimes, and in most cases are known to have carried out executions during the past 10 years.

Table 2. List of countries that are totally abolitionist

Country or territory	Date of abolition	Date of abolition for ordinary crimes	Date of last known execution
Andorra	1990	..	1943
Angola	1992	..	..
Australia	1985	1984	1967
Austria	1968	1950	1950
Azerbaijan	1998	..	..
Belgium	1996	..	1950
Bolivia	..	..	1974
Cambodia	1989	..	..
Cape Verde	1981	..	1835
Colombia	1910	..	1909
Costa Rica	1877	..	..
Croatia	1990	..	..
Czech Republic	1990	..	1989
Denmark	1978	1930	1950
Dominican Republic	1966	..	..
Ecuador	1906	..	..
Estonia	1998	..	..
Finland	1972	1949	1946
France	1981	..	1977
Georgia	1997	..	1995

Country or territory	Date of abolition	Date of abolition for ordinary crimes	Date of last known execution
Germany	1949/1987 a/	..	1949
Greece	1997	..	..
Guinea-Bissau	1993	..	1986
Haiti	1987	..	1972
Holy See	1969	..	..
Honduras	1956	..	1940
Hungary	1990	..	1988
Iceland	1928	..	1830
Ireland	1990	..	1954
Italy	1994	1947	1947
Kiribati	..	..	*
Liechtenstein	1987	..	1785
Luxembourg	1979	..	1949
Marshall Islands	..	..	*
Mauritius	1995	..	1987
Micronesia (Federated States of)	..	..	*
Monaco	1962	..	1847
Mozambique	1990	..	1986
Namibia	1990	..	1988
Nepal	1998	..	..
Netherlands	1983	1870	1952
New Zealand	1989	1961	1957
Nicaragua	1979	..	1930
Norway	1979	1905	1948
Palau	..	..	..
Panama	..	..	1903
Paraguay	1992	..	1917
Poland	1997	..	1988
Portugal	1976	1867	1847
Republic of Moldova	1995	..	..
Romania	1990	..	1989
San Marino	1865	1848	1468
Sao Tome and Principe	1990	..	*
Slovakia	1990	..	1989
Slovenia	1991	..	1959

Country or territory	Date of abolition	Date of abolition for ordinary crimes	Date of last known execution
Solomon Islands	..	1966	*
South Africa	1995	..	1989
Spain	1995	1978	1975
Sweden	1973	1921	1910
Switzerland	1992	1937	1945
The former Yugoslav Republic of Macedonia	1991	..	1988
Tuvalu	..	..	*
Uruguay	1907	..	..
Vanuatu	..	..	*
Venezuela	1863	..	..

Total: 65 countries

Two dots (..) indicate that data are not available.

An asterisk (*) indicates that there have been no executions since the country gained its independence.

A/ The death penalty was abolished in the Federal Republic of Germany in 1949 and in the German Democratic Republic in 1987. The date of the last execution in the German Democratic Republic is not known.

Table 3. List of countries that are abolitionist for ordinary crimes only

Country	Date of abolition for ordinary crimes	Date of last execution
Argentina	1984	..
Bolivia	1991	..
Bosnia and Herzegovina	1997	..
Brazil	1979	1855
Canada	1976	1962
Cyprus	1983	1962
El Salvador	1983	1973
Fiji	1979	1964
Israel	1954	1962
Malta	1971	1943

Country	Date of abolition for ordinary crimes	Date of last execution
Mexico	..	1937
Peru	1979	1979
Seychelles	..	*
South Africa	1995	..
United Kingdom of Great Britain and Northern Ireland	1965 a/	1964

Total: 16 countries

Two dots (..) indicate that data are not available.

An asterisk (*) indicates that there have been no executions since the country gained its independence.

---

a/ The death penalty was abolished in Northern Ireland in 1973.

Table 4. List of countries that can be considered abolitionist de facto a/

Country	Date of last known execution
Albania	..
Bermuda	1977
Bhutan	1964
Brunei Darussalam	1957
Central African Republic	1981
Chile	1985
Congo	1982
Côte d'Ivoire	..
Djibouti	*
Gambia	..
Grenada	1978
Guinea	1983
Madagascar	1958
Maldives	1952
Mali	1980
Nauru	*
Niger	1976
Papua New Guinea	1950
Philippines	1976
Samoa	*

Country	Date of last known execution
Senegal	1967
Sri Lanka	1976
Suriname	1984
Togo	..
Tonga	1982
Turkey	1984

Total: 26 countries

Two dots (..) indicate that data are not available.

An asterisk (*) indicates that there have been no executions since the country gained its independence.

---

a/ Countries that retain the death penalty for ordinary crimes but have not executed anyone during the last 10 years or more. It should be pointed out that in some of these countries death sentences continue to be imposed, and not all of the countries listed have a policy of regularly commuting death sentences.

Table 5. Summary of the status of the death penalty worldwide

Number of retentionist countries	87
Number of totally abolitionist countries	65
Number of countries abolitionist for ordinary crimes only	16
Number of countries that can be considered abolitionist	26

III. CONCLUSIONS

26. The last (fifth) quinquennial report affirmed the trend towards an increased pace of abolition, noted in the fourth quinquennial report, and concluded that "an unprecedented number of countries have abolished or suspended the use of the death penalty" (para. 94) and that from 1989 through 1995 "the pace of change may be seen to have been quite remarkable" (para. 96).

27. The information in the present report supports the conclusion that the trend towards abolition continues, with an increase in the figure of totally abolitionist countries from 61 to 65. There is also an increase in the number of countries ratifying international instruments that provide for the abolition of the death penalty. During the reporting period, no country classified as abolitionist (whether for all or only ordinary crimes) made legal changes to reintroduce the death penalty. One retentionist country was reclassified as abolitionist de facto.

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PROMOTION AND PROTECTION OF HUMAN RIGHTS: STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Question of the death penalty

Report of the Secretary-General submitted pursuant to Commission resolution 1998/8

Corrigendum

Table 1

After Sierra Leone insert Singapore

The total then becomes 88 countries

GE.99-11305 (E)

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PROMOTION AND PROTECTION OF HUMAN RIGHTS: STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Question of the death penalty

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Addendum

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GE.99-11120 (E)

Introduction

The present document contains abridged versions of additional replies submitted by the Governments of the Islamic Republic of Iran, Lithuania and Turkmenistan, and from the European Parliament. The Permane Mission of Brazil sent a reply that reiterates information contained in document E/CN.4/1998/82, annex and is therefore not summarized in this document. (The replies were received after the preparation of document E/CN.4/1999/52.)

I. COMMENTS RECEIVED FROM GOVERNMENTS

Iran (Islamic Republic of)

[Original: Engl
[23 December 19

The Government of the Islamic Republic of Iran considers that the is of the death penalty should remain within the framework of the Commission Crime Prevention and Criminal Justice. The consideration of the issue by Commission will facilitate the attainment of an international consensus on topic which is quite clearly lacking at international level. The consider majority of the States Members of the United Nations have in the first par of the present decade either voted against or abstained whenever the aboli of capital punishment has been put to a vote in the General Assembly. The divergence of views on this question manifested itself at the forty-ninth session of the General Assembly during which a draft resolutio the subject was rejected by an overwhelming majority.

The Government of the Islamic Republic of Iran is of the view that t Commission on Human Rights should continue to address extrajudicial, summa or arbitrary executions and ensure that States which retain the use of the death penalty comply with the international legal requirements.

The legislation and application of the death penalty in the Islamic Republic of Iran is in accordance with the Islamic penal system which is n incompatible with human rights conventions and the respective guarantees s forth in them. According to article 22 of the Constitution of the Islamic Republic of Iran, "the dignity, life, property, rights, residence, and occupation of an individual are inviolable, except in cases authorized by law".

The application of the death penalty in the Islamic Republic of Iran limited to those cases specified in legally binding laws for commission or perpetration of the most serious crimes. It will only be carried out aft the legal proceedings called for under those laws have been concluded and final judgement handed down. Anyone sentenced to death has the right to appeal to a court of higher jurisdiction, including the Supreme Court.

According to article 473 of the Penal Procedure Law, the verdicts o penal courts are enforced in the following cases:

(a) If no protest or appeal has been made within the legal time limit (the time limit is 30 days from the date of issuance of the court verdict);

(b) If the verdict is confirmed by the Supreme Court;

(c) In those cases where the request for appeal has been rejected or the appeal has been rejected in a final judgement.

Article 49 of the Islamic Punishment Law provides that: "Children shall not bear penal responsibility for the offence they commit, and their education will, at the discretion of the court, be entrusted to the child's guardian or, if occasion demands, to the Juvenile Reform and Education Centre".

According to article 484 of the Penal Statute, the death penalty cannot be imposed on a sick convict, a pregnant woman or a new mother until her child reaches two years of age.

It was pointed out that more detailed information on this issue is available in the second periodic report of the Islamic Republic of Iran to the Human Rights Committee (CCPR/C/28/Add.15) the summary records of the meetings of the Committee (CCPR/C/SR.1251-1253) and the concluding observations of the Committee (A/48/40, paras. 190-270).

Lithuania

* [Original: English]
[22 January 1999]

Since July 1996, the President of the Republic of Lithuania has de facto suspended the execution of death penalties. On 9 December 1998, the Constitutional Court, after consideration of a case submitted by a group of members of Parliament, issued a decision that capital punishment as provided for in article 105 of the Criminal Code did contradict articles 18, 19 and Part 3 of article 21 of the Constitution.

In accordance with this ruling, the Seima (Parliament), on 21 December 1998, amended the relevant articles of the Criminal Code, thereby abolishing the death penalty. The new amendments entered into force on 31 December 1998. By a separate law the death sentences for already convicted persons were commuted to life imprisonment. The Republic of Lithuania signed Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in Strasbourg on 18 January 1999.

Turkmenistan

[Original: English and Russian]
[7 January 1999]

On 6 January 1999, the President of Turkmenistan issued the Decree entitled "Introduction of a moratorium on capital punishment as a measure of criminal justice". As stated in the Decree, the moratorium was declared in

connection with the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights and was inspired by ideals of humanism, kindness and justice.

On the same date the President also issued the Law entitled "The rules of the application of a moratorium on capital punishment as a measure of criminal justice". The law contains the following provisions:

> "In connection with the introduction of the moratorium on capital punishment as a measure of criminal justice by the Decree of the President of Turkmenistan on 6 January 1999:
>
> "1. The courts of Turkmenistan shall not give a sentence of capital punishment as a measure of criminal justice starting 1 January 1999;
>
> "2. Pursuant to the principles of article 6 of the Criminal Code of Turkmenistan, the jurisdiction of the moratorium on capital punishment as a measure of criminal justice is extended to persons who were sentenced to death before the moratorium entered into force;
>
> "3. Persons sentenced to death before 1 January 1999, shall be sent to reformatories to keep them under the conditions provided for persons who serve their sentence in the reformatories of special regime.
>
> "4. This law enters into force at the moment of its adoption."

II. REPLIES RECEIVED FROM INTERGOVERNMENTAL ORGANIZATIONS

European Parliament

[Original: English]
[11 January 1999]

On 17 December 1998, the European Parliament adopted a resolution on the abolition of the death penalty in which it expressed its deep regret about the fact that, despite international reaction against executions, the United States continues to apply the death penalty; expressed its concern at the death penalties passed in Turkmenistan on three persons; noted that Sarah Jane Dematera was sentenced to death in February 1996 by a Saudi Arabian court and emphasized that Mrs. Dematera had only a very limited opportunity to prove her innocence; called for the immediate and unconditional global abolition of the death penalty; called on those States still practising the death penalty to declare an immediate moratorium; and called on member States not to agree to extradite individuals for crimes which carry the death penalty to those States which retain it on their statute books.

Regarding certain specific cases, the Parliament called once again on all the states within the United States to abandon the death penalty; issued an urgent appeal to the Governor of Pennsylvania not to sign a fresh warrant setting an execution date and reiterated its call for a retrial for Mumia Abu-Jamal and for the death sentence passed on him to be commuted;

called on the Supreme Court of Florida to annul the death sentence on the Spanish national Joaquín José Martínez and to guarantee his right to prove his innocence through a retrial; called on the Saudi Arabian Government to abolish the death penalty and to commute death sentences; expressed its concern about the high number of death sentences being passed in Turkmenistan, and called on the President of Turkmenistan to use his constitutional authority and commute the death sentences passed on Shaliko Maisuradze, Gulshirin Shykhyeva and Tylla Garadshayeva, and any other death sentences that come before him.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF
JUSTICE AND IMPUNITY

The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms

Note by the Secretary-General

1. In its resolution 1997/29, the Commission on Human Rights expressed its appreciation to States that had provided information to the Secretary-General, in compliance with Commission resolution 1996/35 and requested those that had not yet done so to provide information to the Secretary-General as soon as possible on legislation relating to the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms.

2. The present note is submitted pursuant to paragraph 3 of resolution 1997/29 in which the Commission requested the Secretary-General to prepare an additional report on the basis of replies he received from States for submission to the Commission on Human Rights at its fifty-fifth session. It is intended to indicate that further replies were received from the Governments of Benin, Colombia, Paraguay and Uruguay. These replies have been submitted to Mr. Cherif Bassiouni, expert on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms, so that he may take account of them in the preparation of his report to the Commission (E/CN.4/1999/65). The full text of these replies are available for consultation in the files of the Secretariat.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF TORTURE AND DETENTION

STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Report of the Secretary-General

1. The General Assembly, in its resolution 39/46 of 10 December 1984, adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and called upon all Governments to consider signing and ratifying the Convention as a matter of priority.

2. The Convention was opened for signature in New York on 4 February 1985. In accordance with article 27 thereof, the Convention entered into force on 26 June 1987, on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

3. In its resolution 1998/38 of 17 April 1998, the Commission on Human Rights urged all States to become parties to the Convention as a matter of priority; invited all States ratifying or acceding to the Convention and those States parties which had not yet done so to make the declarations provided for in articles 21 and 22 of the Convention and to consider the possibility of withdrawing their reservations to article 20; and encouraged States parties to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention 1/ as soon as possible.

4. As at 5 December 1998, the Convention had been ratified, acceded or succeeded to by 110 States. In addition, 12 States had signed the Convention. The list of States that have signed, ratified or acceded to the Convention, as well as the dates of their signature, ratification or accession, is contained in the annex to the present report.

5. As at the same date, 39 of the States parties to the Convention, namely Algeria, Argentina, Australia, Austria, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Finland, France, Greece, Hungary, Iceland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Poland, Portugal, the Russian Federation, Senegal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Togo, Tunisia, Turkey, Uruguay, Venezuela and Yugoslavia, had made the declarations provided for in articles 21 and 22 of the Convention. In addition, two States parties, namely the United Kingdom of Great Britain and Northern Ireland and the United States of America, had made the declaration provided for in article 21 only, thus bringing the total of declarations under that article to 41. 2/ Under article 21, a State party to the Convention may declare at any time that it recognizes the competence of the Committee against Torture to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Convention. Under article 22, a State party to the Convention may declare at any time that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State party of the provisions of the Convention.

6. The provisions of articles 21 and 22 entered into force on 26 June 1987 in accordance with paragraph 2 of article 21 and paragraph 8 of article 22.

7. The Committee against Torture held its twentieth and twenty-first sessions at the United Nations Office at Geneva from 4 to 22 May 1998 and from 9 to 20 November 1998, respectively. In accordance with article 24 of the Convention, the Committee submitted its annual report, 3/ which covered the activities of the Committee at its nineteenth and twentieth sessions, to the States parties and to the General Assembly at its fifty-third session.

8. The membership of the Committee for 1998 was as follows:

Mr. Peter Thomas BURNS	Canada
Mr. Guibril CAMARA	Senegal
Mr. Sayed Kassem EL MASRY	Egypt
Mr. Alejandro GONZÁLEZ POBLETE	Chile
Mr. Andreas MAVROMMATIS	Cyprus
Mr. António SILVA HENRIQUES GASPAR	Portugal
Mr. Bent SORENSON	Denmark
Mr. Alexander M. YAKOVLEV	Russian Federation
Mr. YU Mengjia	China
Mr. Bostjan M. ZUPANCIC	Slovenia

Notes

1/ Adopted by the Conference of the States parties on 9 September 1992 in accordance with article 29, paragraph 1, of the Convention (CAT/SP/SR.4) and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992.

2/ The text of the declarations, reservations or objections made by States parties up to 1 February 1998 with respect to the Convention is contained in document CAT/C/2/Rev.5.

3/ Official Records of the General Assembly, Fifty-third Session, Supplement No. 44 (A/53/44).

ANNEX

List of States which have signed, ratified or acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as at 5 December 1998

State	Date of signature	Date of receipt of the instrument of ratification, accession or succession
Afghanistan	4 February 1985	1 April 1987
Albania		11 May 1994 b/
Algeria a/	26 November 1985	12 September 1989
Antigua and Barbuda		19 July 1993 b/
Argentina a/	4 February 1985	24 September 1986
Armenia		13 September 1993 b/
Australia a/	10 December 1985	8 August 1989
Austria a/	14 March 1985	29 July 1987
Azerbaijan		16 August 1996 b/
Bahrain		6 March 1998 b/
Bangladesh		5 October 1998 b/
Belarus	19 Decerber 1985	13 March 1987
Belgium	4 February 1985	
Belize		17 March 1986 b/
Benin		12 March 1992 b/
Bolivia	4 February 1985	
Bosnia and Herzegovina		6 March 1992 c/
Brazil	23 September 1985	28 September 1989
Bulgaria a/	10 June 1986	16 December 1986
Burundi		18 February 1993 b/
Cambodia		15 October 1992 b/
Cameroon		19 December 1986 b/
Canada a/	23 August 1985	24 June 1987
Cape Verde		4 June 1992 b/
Chad		9 June 1995 b/
Chile	23 September 1987	30 September 1988
China	12 December 1986	4 October 1988
Colombia	10 April 1985	8 December 1987
Costa Rica	4 February 1985	11 November 1993
Côte d'Ivoire		18 December 1995 b/
Croatia a/		8 October 1991 c/
Cuba	27 January 1986	17 May 1995
Cyprus a/	9 October 1985	18 July 1991
Czech Republic		1 January 1993 c/
Democratic Republic of the Congo		18 March 1996 b/

State	Date of signature	Date of receipt of the instrument of ratification, accession or succession
Denmark a/	4 February 1985	27 May 1987
Dominican Republic	4 February 1985	
Ecuador a/	4 February 1985	30 March 1988
Egypt		25 June 1986 b/
El Salvador		17 June 1996 b/
Estonia		21 October 1991 b/
Ethiopia		14 March 1994 b/
Finland a/	4 February 1985	30 August 1989
France a/	4 February 1985	18 February 1986
Gabon	21 January 1986	
Gambia	23 October 1985	
Georgia		26 October 1994 b/
Germany	13 October 1986	1 October 1990
Greece a/	4 February 1985	6 October 1988
Guatemala		5 January 1990 b/
Guinea	30 May 1986	10 October 1989
Guyana	25 January 1988	19 May 1988
Honduras		5 December 1996 b/
Hungary a/	28 November 1986	15 April 1987
Iceland a/	4 February 1985	23 October 1996
India	14 October 1997	
Indonesia	23 October 1985	28 October 1998
Ireland	28 September 1992	
Israel	22 October 1986	3 October 1991
Italy a/	4 February 1985	12 January 1989
Jordan		13 November 1991 b/
Kazakhstan		26 August 1998
Kenya		21 February 1997 b/
Kuwait		8 March 1996 b/
Kyrgyzstan		5 September 1997 b/
Latvia		14 April 1992 b/
Libyan Arab Jamahiriya		16 May 1989 b/
Liechtenstein a/	27 June 1995	2 November 1990
Lithuania		1 February 1996 b/
Luxembourg a/	22 February 1985	29 September 1987
Malawi		11 June 1996 b/
Malta a/		13 September 1990 b/
Mauritius		9 December 1992 b/
Mexico	18 March 1985	23 January 1986
Monaco a/		6 December 1991 b/

State	Date of signature	Date of receipt of the instrument of ratification, accession or succession
Morocco	8 January 1986	21 June 1993
Namibia		28 November 1994 b/
Nepal		14 May 1991 b/
Netherlands a/	4 February 1985	21 December 1988
New Zealand a/	14 January 1986	10 December 1989
Nicaragua	15 April 1985	
Niger		5 October 1998 b/
Nigeria	28 July 1988	
Norway a/	4 February 1985	9 July 1986
Panama	22 February 1985	24 August 1987
Paraguay	23 October 1989	12 March 1990
Peru	29 May 1985	7 July 1988
Philippines		18 June 1986 b/
Poland a/	13 January 1986	26 July 1989
Portugal a/	4 February 1985	9 February 1989
Republic of Korea		9 January 1995 b/
Republic of Moldova		28 November 1995 b/
Romania		18 December 1990 b/
Russian Federation a/	10 December 1985	3 March 1987
Saudi Arabia		22 September 1997 b/
Senegal a/	4 February 1985	21 August 1986
Seychelles		5 May 1992 b/
Sierra Leone	18 March 1985	
Slovakia a/		29 May 1993 c/
Slovenia a/		16 July 1993 b/
Somalia		24 January 1990 b/
South Africa	29 January 1993	
Spain a/	4 February 1985	21 October 1987
Sri Lanka		3 January 1994 b/
Sudan	4 June 1986	
Sweden a/	4 February 1985	8 January 1986
Switzerland a/	4 February 1985	2 December 1986
Tajikistan		11 January 1995 b/
The former Yugoslav Republic of Macedonia		12 December 1994 c/
Togo a/	25 March 1987	18 November 1987
Tunisia a/	26 August 1987	23 September 1988
Turkey a/	25 January 1988	2 August 1988
Uganda		3 November 1986 b/
Ukraine	27 February 1986	24 February 1987
United Kingdom of Great Britain and Northern Ireland d/	15 March 1985	8 December 1988

State	Date of signature	Date of receipt of the instrument of ratification, accession or succession
United States of America d/	18 April 1988	21 October 1994
Uruguay a/	4 February 1985	24 October 1986
Uzbekistan		28 September 1995 b/
Venezuela a/	15 February 1985	29 July 1991
Yemen		5 November 1991 b/
Yugoslavia a/	18 April 1989	10 September 1991
Zambia		7 October 1998 b/

Notes

a/ Made the declaration under articles 21 and 22 of the Convention.

b/ Accession.

c/ Succession.

d/ Made the declaration under article 21 of the Convention.